

FIRST REGULAR SESSION  
HOUSE COMMITTEE SUBSTITUTE FOR  
**SENATE BILL NO. 63**  
**96TH GENERAL ASSEMBLY**

0525L.02C

D. ADAM CRUMBLISS, Chief Clerk

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**AN ACT**

To repeal sections 247.060, 250.236, 256.400, 386.370, 386.420, 386.490, 386.510, 386.515, 386.520, 386.530, 386.540, 386.850, 393.015, 393.135, 393.275, 393.1000, 393.1003, 393.1075, 414.530, 414.560, 414.570, and 660.122, RSMo, and to enact in lieu thereof twenty-two new sections relating to utilities, with a penalty provision and an emergency clause for certain sections.

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

Section A. Sections 247.060, 250.236, 256.400, 386.370, 386.420, 386.490, 386.510, 2 386.515, 386.520, 386.530, 386.540, 386.850, 393.015, 393.135, 393.275, 393.1000, 393.1003, 3 393.1075, 414.530, 414.560, 414.570, and 660.122, RSMo, are repealed and twenty-two new 4 sections enacted in lieu thereof, to be known as sections 247.060, 250.236, 256.400, 256.433, 5 386.370, 386.420, 386.490, 386.510, 386.515, 386.520, 386.530, 386.540, 393.015, 393.135, 6 393.275, 393.1000, 393.1003, 393.1075, 414.530, 414.560, 414.570, and 660.122, to read as 7 follows:

247.060. 1. The management of the business and affairs of the district is hereby vested 2 in a board of directors, who shall have all the powers conferred upon the district except as herein 3 otherwise provided[, who shall serve without pay]. It shall be composed of five members, each 4 of whom shall be a voter of the district and shall have resided in said district one whole year 5 immediately prior to his election. A member shall be at least twenty-five years of age and shall 6 not be delinquent in the payment of taxes at the time of his election. Except as provided in 7 subsection 2 of this section, the term of office of a member of the board shall be three years. The 8 remaining members of the board shall appoint a qualified person to fill any vacancy on the board. 9 If no qualified person who lives in the subdistrict for which there is a vacancy is willing to serve

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

10 on the board, the board may appoint an otherwise qualified person who lives in the district but  
11 not in the subdistrict in which the vacancy exists to fill such vacancy.

12         2. After notification by certified mail that he or she has two consecutive unexcused  
13 absences, any member of the board failing to attend the meetings of the board for three  
14 consecutive regular meetings, unless excused by the board for reasons satisfactory to the board,  
15 shall be deemed to have vacated the seat, and the secretary of the board shall certify that fact to  
16 the board. The vacancy shall be filled as other vacancies occurring in the board.

17         3. The initial members of the board shall be appointed by the circuit court and one shall  
18 serve until the immediately following first Tuesday after the first Monday in April, two shall  
19 serve until the first Tuesday after the first Monday in April on the second year following their  
20 appointment and the remaining appointees shall serve until the first Tuesday after the first  
21 Monday in April on the third year following their appointment. On the expiration of such terms  
22 and on the expiration of any subsequent term, elections shall be held as otherwise provided by  
23 law, and such elections shall be held in April pursuant to section 247.180.

24         4. In 2008, 2009, and 2010, directors elected in such years shall serve from the first  
25 Tuesday after the first Monday in June until the first Tuesday in April of the third year following  
26 the year of their election. All directors elected thereafter shall serve from the first Tuesday in  
27 April until the first Tuesday in April of the third year following the year of their election.

28         **5. Each member of the board may receive an attendance fee not to exceed one**  
29 **hundred dollars for attending each regularly called board meeting, or special meeting, but**  
30 **shall not be paid for attending more than two meetings in any calendar month, except that**  
31 **in a county of the first classification, a member shall not be paid for attending more than**  
32 **four meetings in any calendar month. However, no board member shall be paid more than**  
33 **one attendance fee if such member attends more than one board meeting in a calendar**  
34 **week. In addition, the president of the board of directors may receive fifty dollars for**  
35 **attending each regularly or specially called board meeting, but shall not be paid the**  
36 **additional fee for attending more than two meetings in any calendar month. Each member**  
37 **of the board shall be reimbursed for his or her actual expenditures in the performance of**  
38 **his or her duties on behalf of the district.**

39         **6. In no event, however, shall a board member receive any attendance fees or**  
40 **additional compensation authorized in subsection 5 of this section until after such board**  
41 **member has completed a minimum of six hours training regarding the responsibilities of**  
42 **the board and its members concerning the basics of water treatment and distribution,**  
43 **budgeting and rates, water utility planning, the funding of capital improvements, the**  
44 **understanding of water utility financial statements, the Missouri sunshine law, and this**  
45 **chapter.**

46           **7. The circuit court of the county having jurisdiction over the district shall have**  
47 **jurisdiction over the members of the board of directors to suspend any member from**  
48 **exercising his or her office, whensoever it appears that he or she has abused his or her trust**  
49 **or become disqualified; to remove any member upon proof or conviction of gross**  
50 **misconduct or disqualification for his or her office; or to restrain and prevent any**  
51 **alienation of property of the district by members, in cases where it is threatened, or there**  
52 **is good reason to apprehend that it is intended to be made in fraud of the rights and**  
53 **interests of the district.**

54           **8. The jurisdiction conferred by this section shall be exercised as in ordinary cases**  
55 **upon petition, filed by or at the instance of any member of the board, or at the instance of**  
56 **any ten voters residing in the district who join in the petition, verified by the affidavit of**  
57 **at least one of them. The petition shall be heard in a summary manner after ten days'**  
58 **notice in writing to the member or officer complained of. An appeal shall lie from the**  
59 **judgment of the circuit court as in other causes, and shall be speedily determined; but an**  
60 **appeal does not operate under any condition as a supersedeas of a judgment of suspension**  
61 **or removal from office.**

62           **9. In no event, however, shall a board member receive any attendance fees or**  
63 **additional compensation authorized in subsection 5 of this section if any person entitled**  
64 **to water service within the district pursuant to this section and chapter who has made a**  
65 **proper request for water service, has gone without water service or has not been connected**  
66 **to water service, within eight months of the time such request for water service was made.**  
67 **Attendance fees shall be permanently forfeited for the period running from immediately**  
68 **after the end of the eight month grace period until such time as the person's water service**  
69 **is restored or connected. Additional fees may be paid to the board once the deficiency in**  
70 **water service has been resolved. The secretary and treasurer shall decline to pay the**  
71 **attendance fee to the board members upon verification of the lack of water service, and**  
72 **shall require the restitution of any fees paid that are properly subject to forfeiture. Any**  
73 **person alleging a lack of proper water service pursuant to this subsection may enforce the**  
74 **provisions of this section in any court of proper jurisdiction. Such court shall provide**  
75 **injunctive relief to enforce the provisions of this subsection upon a determination that the**  
76 **standards for water service required for the conditional payment of board members have**  
77 **not been met.**

250.236. 1. Any city, town or village may contract with a private or public water  
2 company to terminate water services, at the direction of the city, because a customer fails to pay  
3 his sewer bill. When charges for sewer services are in arrears for more than three months and  
4 after the city sends notice to the customer [by certified mail], the city may disconnect the

5 customer's sewer line or request in writing that the private or public water company discontinue  
6 water service until such time as the sewer charges and all related costs are paid.

7 2. A private or public water company acting pursuant to a written request from the city  
8 as provided in subsection 1 of this section is not liable for damages related to termination of  
9 water services. All costs related to disconnection and reconnections shall be reimbursed to the  
10 private water company by the city.

256.400. As used in sections 71.287 and 256.400 to [256.430] **256.433**, unless the  
2 context clearly indicates otherwise, the following terms mean:

3 (1) "Department", the department of natural resources;

4 (2) "Director", the director of the department of natural resources;

5 (3) "Division", the division of geology and land survey of the department of natural  
6 resources;

7 (4) "Major water user", any person, firm, corporation or the state of Missouri, its  
8 agencies or corporations and any other political subdivision of this state, their agencies or  
9 corporations, with a water source and equipment necessary to withdraw or divert one hundred  
10 thousand gallons or more per day from any stream, river, lake, well, spring or other water source;

11 (5) "State geologist", the director of the division of geology and land survey of the  
12 department of natural resources;

13 (6) "Water source", any stream, river, lake, well, spring or other water source.

**256.433. Notwithstanding any provision of law to the contrary, no firm,  
2 corporation, or agency located in whole or in part outside of this state with a capability of  
3 withdrawing or diverting one hundred thousand gallons or more per day from any stream,  
4 river, lake, well, spring, or other water source shall convey water withdrawn or diverted  
5 from within the Southeast Missouri Regional Water District created under section 256.643  
6 when such withdrawal or diversion and subsequent conveyance to a location outside such  
7 district unduly interferes with the reasonable and customary activities of a major water  
8 user registered under section 256.410 located within said district. If such conveyance  
9 occurs, the attorney general or the party or parties affected may file an action for an  
10 injunction, however, in no case shall an injunction be issued if the injunction would be  
11 detrimental to public health or safety.**

386.370. 1. **Prior to the beginning of each fiscal year**, the commission shall[, prior  
2 to the beginning of each fiscal year beginning with the fiscal year commencing on July 1, 1947,]  
3 make an estimate of the expenses to be incurred by it during such fiscal year reasonably  
4 attributable to the regulation of public utilities as provided in chapters 386, 392, and 393. **Prior  
5 to the beginning of each fiscal year, the public counsel shall make an estimate of the  
6 expenses to be incurred by him or her during such fiscal year reasonably attributable to**

7 **his or her responsibilities under sections 387.700 and 386.710. The commission and the**  
8 **public counsel** shall also separately estimate the amount of such expenses directly attributable  
9 to [such regulation of] each of the following groups of public utilities: Electrical corporations,  
10 gas corporations, water corporations, heating companies [and telephone corporations, telegraph  
11 corporations], **telecommunications companies**, sewer corporations, and any other public utility  
12 as defined in section 386.020, as well as the amount of such expenses not directly attributable  
13 to any such group.

14       2. The commission **and the public counsel** shall **each** allocate to each such group of  
15 public utilities the **total** estimated expenses directly attributable to [the regulation of] **their**  
16 **respective activities for each** such group and an amount equal to such proportion of the  
17 estimated expenses not directly attributable to any group as the gross intrastate operating  
18 revenues of such group during the preceding calendar year bears to the total gross intrastate  
19 operating revenues of all public utilities subject to the jurisdiction of the commission, as  
20 aforesaid, during such calendar year. The commission shall then assess the amount so allocated  
21 **by the commission and the public counsel** to each group of public utilities, subject to reduction  
22 as herein provided, to the public utilities in such group in proportion to their respective gross  
23 intrastate operating revenues during the preceding calendar year, except that:

24       (1) The total amount so assessed to all such public utilities **that is attributable to the**  
25 **commission's regulation of such utilities** shall not exceed [one-fourth] **twenty-two**  
26 **hundredths** of one percent of the total gross intrastate operating revenues of all utilities subject  
27 to the jurisdiction of the commission; **and**

28       (2) **The total amount so assessed to all such public utilities that is attributable to the**  
29 **public counsel's responsibilities under sections 386.700 and 386.710 shall not exceed two**  
30 **hundredths of one percent of the total gross intrastate operating revenues of all utilities**  
31 **subject to the jurisdiction of the commission, and the amount allocated to**  
32 **telecommunications companies shall not exceed three percent of the total estimated**  
33 **expenses directly attributable to the public counsel's responsibilities.**

34  
35 **If any electrical corporation obtains a combined license granted by the United States**  
36 **Nuclear Regulatory Commission or a successor organization then during the fiscal year**  
37 **immediately following the year in which the combined license was granted, and for each**  
38 **fiscal year thereafter, the total amount assessed under subdivision (1) of this subsection**  
39 **shall increase to an amount not to exceed twenty-three hundredths of one percent of the**  
40 **total gross intrastate operating revenues of all utilities subject to the jurisdiction of the**  
41 **commission, and the total amount assessed under subdivision (2) of this subsection shall**  
42 **increase to an amount not to exceed three hundredths of one percent of the total gross**

43 **intrastate operating revenues of all utilities subject to the jurisdiction of the commission.**  
44 **Nothing in this section shall authorize the commission to determine how the public counsel**  
45 **allocates the estimated expenses directly attributable to his or her responsibilities under**  
46 **sections 386.700 and 386.710 with respect to the public utilities described in subsection 1**  
47 **of this section or how the assessment imposed under this section is spent by the public**  
48 **counsel.**

49         3. The commission shall render a statement of [such assessment] **the assessments made**  
50 **under subsections 1 and 2 of this section** to each such public utility on or before July first and  
51 the [amount] **amounts** so assessed to each such public utility shall be paid by it to the director  
52 of revenue in full on or before July fifteenth next following the rendition of such statement,  
53 except that any such public utility may at its election pay such assessment in four equal  
54 installments not later than the following dates next following the rendition of said statement, to  
55 wit: July fifteenth, October fifteenth, January fifteenth and April fifteenth. The director of  
56 revenue shall remit such payments to the state treasurer.

57         4. The state treasurer shall **respectively** credit such payments to [a] **two** special [fund]  
58 **funds**, which [is] **are** hereby created, to be known as "The Public Service Commission Fund",  
59 which fund, or its successor fund created pursuant to section 33.571, shall be devoted solely to  
60 the payment of expenditures actually incurred by the commission and attributable to the  
61 regulation of such public utilities subject to the jurisdiction of the commission, as aforesaid, **and**  
62 **"The Public Counsel Fund", which fund, or any successor fund, shall be devoted solely to**  
63 **the payment of expenditures actually incurred by the public counsel and attributable to**  
64 **his or her responsibilities under sections 386.700 and 386.710.** Any [amount] **amounts**  
65 remaining in such special [fund] **funds** or [its] **their respective** successor [fund] **funds** at the end  
66 of any fiscal year shall not revert to the general revenue fund, but shall be applicable by  
67 appropriation of the general assembly to the payment of such expenditures of the commission  
68 **or the public counsel** in the succeeding fiscal year and shall be applied by the commission **or**  
69 **the public counsel** to the reduction of the amount to be assessed to such public utilities in such  
70 succeeding fiscal year, such reduction to be allocated to each group of public utilities in  
71 proportion to the respective gross intrastate operating revenues of the respective groups during  
72 the preceding calendar year.

73         5. In order to enable the commission **and the public counsel** to make the allocations and  
74 assessments herein provided for, each public utility subject to the jurisdiction of the commission  
75 as aforesaid shall file with the commission[, within ten days after August 28, 1996, and  
76 thereafter] on or before March thirty-first of each year, a statement under oath showing its gross  
77 intrastate operating revenues for the preceding calendar year, and if any public utility shall fail

78 to file such statement within the time aforesaid the commission shall estimate such revenue  
79 which estimate shall be binding on such public utility for the purpose of this section.

386.420. 1. At the time fixed for any hearing before the commission or a commissioner,  
2 or the time to which the same may have been continued, the complainant, the public counsel and  
3 the corporation, person or public utility complained of, and such corporations and persons as the  
4 commission may allow to intervene, shall be entitled to be heard and to introduce evidence. The  
5 commission shall issue process to enforce the attendance of all necessary witnesses.

6 2. Whenever an investigation shall be made by the commission, it shall be its duty, to  
7 make a report in writing in respect thereto, which shall state the conclusions of the commission,  
8 together with its decision, order or requirement in the premises. The commission or any  
9 commissioner or any party may, in any investigation or hearing before the commission, cause  
10 the deposition of witnesses residing within or without the state to be taken in the manner  
11 prescribed by law for like depositions in civil actions in the circuit courts of this state and to that  
12 end may compel the attendance of witnesses and the production of books, waybills, documents,  
13 papers, memoranda and accounts. Witnesses whose depositions are taken as provided in this  
14 section and the officer taking the same shall severally be entitled to the same fees as are paid for  
15 like services in the circuit courts of this state.

16 3. If an order cannot, in the judgment of the commission, be complied with within thirty  
17 days, the commission may grant and prescribe such additional time as in its judgment is  
18 reasonably necessary to comply with the order, and may, on application and for good cause  
19 shown, extend the time for compliance fixed in its order.

20 4. A full and complete record shall be made of all proceedings before the commission  
21 or any commissioner on any formal hearing had, and all testimony shall be taken down by a  
22 reporter appointed by the commission, and the parties shall be entitled to be heard in person or  
23 by attorney. Preparation of a printed transcript may be waived by unanimous consent of all the  
24 parties. In case of an action to review any order or decision of the commission, a transcript of  
25 such testimony, together with all exhibits or copies thereof introduced and all information  
26 secured by the commission on its own initiative and considered by it in rendering its order or  
27 decision, and of the pleadings, record and proceedings in the cause, shall constitute the record  
28 of the commission; provided, that on review of an order or decision of the commission, the  
29 petitioner and the commission may stipulate that a certain question or questions alone and a  
30 specified portion only of the evidence shall be certified to the [circuit] **reviewing** court for its  
31 judgment, whereupon such stipulation and the question or questions and the evidence therein  
32 specified shall constitute the record on review. **In any proceeding resulting in the**  
33 **establishment of new rates for a public utility, the commission shall cause to be prepared,**  
34 **with the assistance of the parties to such proceeding, and shall approve, after allowing the**

35 **parties to provide written input, a detailed reconciliation containing the dollar value and**  
36 **rate or charge impact of each contested issue decided by the commission, including the**  
37 **customer class billing determinants used by the commission to calculate the rates and**  
38 **charges approved by the commission in such proceeding. Such information shall be**  
39 **sufficient to permit a reviewing court and the commission on remand from a reviewing**  
40 **court to determine how the public utility's rates and charges, including the rates and**  
41 **charges for each customer class, would need to be temporarily and, if applicable,**  
42 **permanently adjusted to provide customers or the public utility with any monetary relief**  
43 **that may be due in accordance with the procedures set forth in section 386.520. In the**  
44 **event there is any dispute over the value of a particular issue or the correctness of a billing**  
45 **determinant, the commission shall also include in the reconciliation a quantification of the**  
46 **value and rate or charge impact associated with the dispute.**

386.490. 1. Every order of the commission shall be served upon every person or  
2 corporation to be affected thereby, either by personal delivery of a certified copy thereof, **by**  
3 **electronic service**, or by mailing a certified copy thereof[,] in a sealed package with postage  
4 prepaid, to the person to be affected thereby, or, in the case of a corporation, to any officer or  
5 agent thereof upon whom a summons may be served in accordance with the provisions of the  
6 code of civil procedure.

7 2. [It shall be the duty of every person and corporation to notify the commission  
8 forthwith, in writing, of the receipt of the certified copy of every order so served, and in the case  
9 of a corporation such notification must be signed and acknowledged by a person or officer duly  
10 authorized by the corporation to admit such service. Within a time specified in the order of the  
11 commission every person and corporation upon whom it is served must if so required in the order  
12 notify the commission in like manner whether the terms of the order are accepted and will be  
13 obeyed.

14 3.] Every order or decision of the commission shall of its own force take effect and  
15 become operative thirty days after the service thereof, except as otherwise provided, and shall  
16 continue in force either for a period [which may be] designated therein or until changed or  
17 abrogated by the commission, unless such order [be] **is** unauthorized by this law, or [any other  
18 law or be] **is** in violation of a provision of the constitution of [the] **this** state or of the United  
19 States.

386.510. Within [thirty] **fifteen** days after the application for a rehearing is denied, or,  
2 if the application is granted, then within [thirty] **fifteen** days after the rendition of the decision  
3 on rehearing, the applicant may [apply to] **file a notice of appeal with** the [circuit court of]  
4 **commission, which shall also be served on the parties to the commission proceeding in**  
5 **accordance with section 386.515, and which shall also be filed with the appellate court with**



6 **the territorial jurisdiction over** the county where the hearing was held or in which the  
7 commission has its principal office [for a writ of certiorari or review (herein referred to as a writ  
8 of review)] for the purpose of having the reasonableness or lawfulness of the original order or  
9 decision or the order or decision on rehearing inquired into or determined. [The writ shall be  
10 made returnable not later than thirty days after the date of the issuance thereof, and shall direct  
11 the commission to certify its record in the case to the court. On the return day the cause shall be  
12 heard by the circuit court, unless for a good cause shown the same be continued. No new or  
13 additional evidence may be introduced upon the hearing in the circuit court but the cause shall  
14 be heard by the court without the intervention of a jury on the evidence and exhibits introduced  
15 before the commission and certified to by it.] **The notice of appeal shall include the**  
16 **appellant's application for rehearing, if applicable, a copy of the reconciliation required**  
17 **by subsection 4 of section 386.420, a concise and complete statement of the issues being**  
18 **appealed, a full and complete list of the parties to the commission proceeding, and any**  
19 **other information specified by the rules of the court. Unless otherwise ordered by the**  
20 **court of appeals, the commission shall, within thirty days of the filing of the notice of**  
21 **appeal, certify its record in the case to the court of appeals and appellant shall, within sixty**  
22 **days of the filing of a notice of appeal, submit to the court its initial brief.** The commission  
23 and each party to the action or proceeding before the commission shall have the right to  
24 **intervene, appear, and submit briefs** in the review proceedings **in accordance with the**  
25 **briefing schedule established by the court.** Upon the [hearing the circuit] **submission of the**  
26 **case to the court of appeals, the court of appeals** shall [enter judgment] **render its opinion**  
27 either affirming or setting aside **(in whole or in part)** the order **or decision** of the commission  
28 under review. In case the order **or decision** is reversed by reason of the commission failing to  
29 receive testimony properly proffered, the court shall remand the cause to the commission, with  
30 instructions to receive the testimony so proffered and rejected, and enter a new order **or render**  
31 **a new decision** based upon the evidence theretofore taken, and such as it is directed to receive.  
32 The court may, in its discretion, remand any cause which is reversed by it to the commission for  
33 further action. No court in this state, except [the circuit courts to the extent herein specified and]  
34 the supreme court or the court of appeals [on appeal], shall have jurisdiction **or authority** to  
35 review, reverse, correct or annul any order or decision of the commission or to suspend or delay  
36 the executing or operation thereof, or to enjoin, restrain or interfere with the commission in the  
37 performance of its official duties. The [circuit] **appellate** courts of this state shall always be  
38 deemed open for the trial of suits brought to review the orders and decisions of the commission  
39 as provided in the public service commission law and the same shall **where necessary** be tried  
40 and determined as suits in equity.

386.515. [Prior to August 28, 2001, in proceedings before the Missouri public service  
2 commission, consistent with the decision of the supreme court of Missouri in State ex rel.  
3 Anderson Motor Service Co., Inc. v. Public Service Commission, 97 S.W.2d 116 (Mo. banc  
4 1936) the review procedure provided for in section 386.510 is exclusive to any other procedure.]  
5 An application for rehearing is required to be served on all parties and is a prerequisite to the  
6 filing of an [application for writ of review] **appeal under section 386.510**. The application for  
7 rehearing puts the parties to the proceeding before the commission on notice that [a writ of  
8 review] **an appeal** can follow and any such review **under the appeal** may proceed without  
9 formal notification or summons to said parties. On and after August 28, [2001] **2011**, the review  
10 procedure provided for in section 386.510 [continues to] **shall** be exclusive except that a copy  
11 of [any such writ of review] **the notice of appeal required by section 386.510** shall be  
12 provided to each party to the proceeding before the commission, or his or her attorney of record,  
13 by hand delivery or by registered mail, and proof of such delivery or mailing shall be filed in the  
14 case [as provided by subsection 2 of section 536.110] **by the appellant**.

386.520. 1. The pendency of [a writ of review] **an appeal under section 386.510** shall  
2 not of itself stay or suspend the operation of the order or decision of the commission, but [during  
3 the pendency of such writ, the circuit court in its discretion may stay or suspend, in whole or in  
4 part, the operation of the commission's order or decision. No order so staying or suspending an  
5 order or decision of the commission shall be made by any circuit court otherwise than on three  
6 days' notice and after hearing, and if the order or decision of the commission is suspended the  
7 same shall contain a specific finding based upon evidence submitted to the court and identified  
8 by reference thereto, that great or irreparable damage would otherwise result to the petitioner and  
9 specifying the nature of the damage. In case the order or decision of the commission is stayed  
10 or suspended, the order or judgment of the court shall not become effective until a suspending  
11 bond shall first have been executed and filed with, and approved by, the circuit court, payable  
12 to the state of Missouri, and sufficient in amount and security to secure the prompt payment, by  
13 the party petitioning for the review, of all damages caused by the delay in the enforcement of the  
14 order or decision of the commission, and of all moneys which any person or corporation may be  
15 compelled to pay, pending the review proceedings, for transportation, transmission, product,  
16 commodity or service in excess of the charges fixed by the order or decision of the commission,  
17 in case such order or decision is sustained.

18 2. The circuit court, in case it stays or suspends the order or decision of the commission  
19 in any manner affecting rates, fares, tolls, rentals, charges or classifications, shall also by order  
20 direct the corporation, person or public utility affected to pay into court, from time to time, there  
21 to be impounded until the final decision of the case, or into some bank or trust company paying  
22 interest on deposits, under such conditions as the court may prescribe, all sums of money which

23 it may collect from any corporation or person in excess of the sum such corporation or person  
24 would have been compelled to pay if the order or decision of the commission had not been stayed  
25 or suspended.

26         3. In case any circuit court stays or suspends any order or decision of the commission  
27 lowering any rate, fare, toll, rental, charge or classification, upon the execution and approval of  
28 said suspending bond, shall forthwith require the corporation, person or public utility affected,  
29 under penalty of the immediate enforcement of the order or decision of the commission, pending  
30 the review and notwithstanding the suspending order, to keep such accounts, verified by oath,  
31 as may, in the judgment of the court, suffice to show the amounts being charged or received by  
32 such corporation, person or public utility, pending the review, in excess of the charges allowed  
33 by the order or decision of the commission, together with the names and addresses of the  
34 corporations and persons to whom overcharges will be refundable in case the charges made by  
35 the corporation, person or public utility, pending the review, be not sustained by the circuit court;  
36 provided, that street railroad corporations shall not be required to keep a record of the names and  
37 addresses of such persons paying such overcharge of fares, but such street railroad corporations  
38 shall give to such persons printed receipts showing such overcharges of fares, the form of such  
39 printed receipts to be approved by the commission.

40         4. The court may, from time to time, require said party petitioning for a review to give  
41 additional security on, or to increase, the said suspending bond, whenever in the opinion of the  
42 court the same may be necessary to secure the prompt payment of said damages or said  
43 overcharges.

44         5. Upon the decision of the circuit court, all moneys which the corporation, person or  
45 public utility may have collected pending the appeal, in excess of those authorized by such  
46 decision, together with interest, in case the court ordered the deposit of such moneys in a bank  
47 or trust company, shall be promptly paid to the corporations or persons entitled thereto, in such  
48 manner and through such methods of distribution as may be prescribed by the court, unless an  
49 appeal be granted such corporation, person or public utility, as herein provided] **with respect to**  
50 **commission orders or decisions that do not involve the establishment of new rates and**  
51 **charges for a public utility, the appellate court may in its discretion, or upon the**  
52 **recommendation of a special master appointed for such purpose, stay or suspend the**  
53 **operation of the order or decision of the commission, in whole or in part, if in its discretion**  
54 **it determines that great or irreparable damage would otherwise result to the appellant.**

55         **2. With respect to orders or decisions involving the establishment of new rates or**  
56 **charges, there shall be no stay or suspension of the commission's order or decision,**  
57 **however:**

58           **(1) In the event a final and unappealable judicial decision determines that a**  
59 **commission order or decision unlawfully or unreasonably decided an issue or issues in a**  
60 **manner affecting rates, then the court shall instruct the commission to provide temporary**  
61 **rate adjustments and, if applicable, prospective rate adjustments as calculated based on**  
62 **the reconciliation and billing determinants provided by the commission under subsection**  
63 **4 of section 386.420 and in accordance with the procedures set forth in subdivisions (2) to**  
64 **(5) of this subsection;**

65           **(2) If the effect of the unlawful or unreasonable commission decision was to**  
66 **increase the public utility's rates and charges in excess of what the public utility would**  
67 **have received had the commission not erred or to decrease the public utility's rates and**  
68 **charges in a lesser amount than would have occurred had the commission not erred, then**  
69 **the commission shall be instructed on remand and within sixty days to approve temporary**  
70 **rate adjustments designed to flow through to the public utility's then existing customers**  
71 **the excess amounts that were collected by the utility plus interest at the higher of the prime**  
72 **bank lending rate minus two percentage points or zero. Such amounts shall be calculated**  
73 **from the time the issue or issues were first identified in the appellant's notice of appeal to**  
74 **the court of appeals until the earlier of the date when new rates and charges consistent with**  
75 **the court's opinion became effective or when new rates or charges otherwise approved by**  
76 **the commission as a result of a general rate case filing or complaint became effective. Such**  
77 **amounts shall then be reflected as a rate adjustment over a like period of time;**

78           **(3) If the effect of the unlawful or unreasonable commission decision was to**  
79 **increase the public utility's rates and charges by a lesser amount than what the public**  
80 **utility would have received had the commission not erred or to decrease the public utility's**  
81 **rates and charges in a greater amount than would have occurred had the commission not**  
82 **erred, then the commission shall be instructed on remand and to approve temporary rate**  
83 **adjustments designed to allow the public utility to recover from its then existing customers**  
84 **the amounts it should have collected plus interest at the higher of the prime bank lending**  
85 **rate minus two percentage points or zero. Such amounts shall be calculated for the period**  
86 **commencing with the date the appellant's notice of appeal was filed until the earlier of the**  
87 **date when new permanent rates and charges consistent with the court's opinion became**  
88 **effective or when new permanent rates or charges otherwise approved by the commission**  
89 **as a result of a general rate case filing or complaint became effective. Such amounts shall**  
90 **then be reflected as a rate adjustment over a like period of time;**

91           **(4) If the effect of the unlawful or unreasonable commission decision was to allocate**  
92 **too much of a rate increase or too little of a rate decrease to a customer class or classes,**  
93 **then the commission shall be instructed on remand and within sixty days to approve**

94 **temporary rate adjustments for each customer class as necessary to ensure that each**  
95 **customer class is charged the amounts that would have been charged had the commission**  
96 **not erred. Such amounts shall be calculated for the period commencing with the date the**  
97 **appellant's notice of appeal was filed until the earlier of the date when new rates and**  
98 **charges consistent with the court's opinion became effective or when new rates or charges**  
99 **otherwise approved by the commission as a result of a general rate case filing or complaint**  
100 **became effective. Such amounts shall then be reflected as a rate adjustment over a like**  
101 **period of time;**

102 **(5) No action affecting the public utility's collection of rates and charges shall be**  
103 **taken in cases where the court cannot make a determination on the merits because the**  
104 **commission failed to include adequate findings of fact to support the commission's**  
105 **decision, provided that the commission shall provide such findings of fact or otherwise**  
106 **issue a new order within ninety days of the date of the court's mandate. If such new order**  
107 **is appealed, the period for measuring amounts subject to temporary rate adjustments**  
108 **process set forth in subdivisions (1) to (4) of this subsection shall commence beginning with**  
109 **the initial brief filed in such new appeal.**

386.530. All actions or proceedings under this or any other chapter, and all actions and  
2 proceedings commenced or prosecuted by order of the commission, and all actions and  
3 proceedings to which the commission, the public counsel or the state may be parties, and in  
4 which any question arises under this or any other chapter, or under or concerning any order or  
5 decision or action of the commission, shall be preferred over all other civil causes except election  
6 contests in all the [circuit] **appellate** courts of the state of Missouri, and shall be heard and  
7 determined in preference to all other civil business pending therein except election contests,  
8 irrespective of position on the calendar. The same preference shall be granted upon application  
9 of the public counsel or the commission counsel in any action or proceeding in which either or  
10 both may be allowed to intervene.

386.540. 1. The commission and any party, including the public counsel, who has  
2 participated in the [commission] **court of appeals** proceeding [which produced the order or  
3 decision may, after the entry of judgment in the circuit court in any action in review, prosecute  
4 an appeal to a court having appellate jurisdiction in this state. Such appeal shall be prosecuted  
5 as appeals from judgment of the circuit court in civil cases except as otherwise provided in this  
6 chapter] **and is aggrieved by the opinion of the court may seek rehearing and/or transfer**  
7 **to the Missouri supreme court under rules established by the court.** The original transcript  
8 of the record and testimony and exhibits, certified to by the commission and filed [in the circuit  
9 court in any action to review an order or decision of the commission, together with a transcript

10 of the proceedings in the circuit court,] **with the court of appeals** shall constitute the record on  
11 appeal to the supreme court [or any court of appeals].

12 2. Where an appeal is taken to the supreme court or the court of appeals, the cause shall,  
13 on the return of the papers to the supreme court or court of appeals, be immediately placed on  
14 the docket of the then pending term by the clerk of the court and shall be assigned and brought  
15 to a hearing in the same manner as other causes on the then pending term docket, but shall have  
16 precedence over all civil causes of a different nature pending in the court. [No appeal shall be  
17 effective when taken by a corporation, person or public utility unless a cost bond of appeal in the  
18 sum of five hundred dollars shall be filed within ten days after the entry of judgment in the  
19 circuit court appealed from.]

20 3. [The circuit court may in its discretion suspend its judgment pending the hearing in  
21 the supreme court or court of appeals on appeal, upon the filing of a bond by the corporation,  
22 person or public utility with good and sufficient security conditioned as provided for bonds upon  
23 actions for review and by further complying with all terms and conditions of this law for the  
24 suspension of any order or decision of the commission pending the hearing or review in the  
25 circuit court. This bond shall be in addition to the cost bond heretofore provided in this section.

26 4.] The general laws relating to appeals to the supreme court and the court of appeals in  
27 this state shall, so far as applicable and not in conflict with the provisions of this chapter, apply  
28 to appeals taken under the provisions of this chapter.

393.015. 1. Notwithstanding any other provision of law to the contrary, any sewer  
2 corporation, municipality or sewer district established under the provisions of chapter 249 or  
3 250, or sections 204.250 to 204.470, or any sewer district created and organized pursuant to  
4 constitutional authority, may contract with any water corporation to terminate water services to  
5 any customer premises for nonpayment of a sewer bill. No such termination of water service  
6 may occur until thirty days after the sewer corporation, municipality or statutory sewer district  
7 or sewer district created and organized pursuant to constitutional authority sends a written notice  
8 to the customer [by certified mail], except that if the water corporation is performing a combined  
9 water and sewer billing service for the sewer corporation, municipality or sewer district, no  
10 additional notice or any additional waiting period shall be required other than the notice and  
11 waiting period already used by the water corporation to disconnect water service for nonpayment  
12 of the water bill. Acting pursuant to a contract, the water corporation shall discontinue water  
13 service until such time as the sewer charges and all related costs of termination and  
14 reestablishment of sewer and water services are paid by the customer.

15 2. A water corporation acting pursuant to a contract with a sewer corporation,  
16 municipality or sewer district as provided in subsection 1 of this section shall not be liable for  
17 damages related to termination of water services unless such damage is caused by the negligence

18 of such water corporation, in which case the water corporation shall be indemnified by the sewer  
19 corporation, municipality or sewer district. Unless otherwise specified in the contract, all costs  
20 related to the termination and reestablishment of services by the water corporation shall be  
21 reimbursed by the sewer corporation, municipality, sewer district or sewer district created and  
22 organized pursuant to constitutional authority.

393.135. **1.** Any charge made or demanded by an electrical corporation for service, or  
2 in connection therewith, which is based on the costs of construction in progress upon any  
3 existing or new facility of the electrical corporation, or any other cost associated with owning,  
4 operating, maintaining, or financing any property before it is fully operational and used for  
5 service, is unjust and unreasonable, and is prohibited.

6 **2.** After October 1, 2011, an electrical corporation that seeks an early site permit  
7 from the U.S. Nuclear Regulatory Commission, or a successor organization, shall, upon  
8 commencement of the permitting process, submit monitoring reports to the commission  
9 every six months documenting work completed, total expenditures to date, work yet to be  
10 completed, and anticipated expenditures yet to be incurred in order to obtain the early site  
11 permit.

12 **3.** Notwithstanding the provisions of subsection 1 of this section, an electrical  
13 corporation that has obtained an early site permit and that has complied with subsection  
14 2 of this section shall be entitled to recover through rates charged to ratepayers all costs  
15 the electrical corporation has prudently incurred, from the first dollar through the cap  
16 outlined below, to obtain the permit in a principal amount not to exceed forty-five million  
17 dollars for such site permit. Any electrical corporation that, as part of a partnership or  
18 other group formed for such purpose, contributes or otherwise bears any portion of the  
19 costs incurred to obtain an early site permit shall also be entitled to recover its share of  
20 such costs, provided the total principal amount does not exceed the cost limitation included  
21 in this subsection. The principal amount shall be recovered through each applicable  
22 electrical corporation's rates charged to its ratepayers ratably over a period not to exceed  
23 twenty years. In addition to recovery of the principal amount, each applicable electrical  
24 corporation's rates shall also include interest on the uncollected principal balance at a rate  
25 per annum equal to the electrical corporation's commission-approved return on rate base.  
26 Recovery shall commence with the effective date of tariffs approved by the commission in  
27 each applicable electrical corporation's first general rate proceeding following the date on  
28 which the early site permit is obtained.

29 **4.** If an electrical corporation has recovered from ratepayers expenditures for an  
30 early site permit under subsection 3 of this section and then subsequently sells or transfers  
31 some or all of its interest in the early site permit or subsequently receives reimbursement

32 for all or part of its costs from another source, the commission shall prescribe how the  
33 electrical corporation shall credit the sums paid by ratepayers that are equal to such sale,  
34 transfer, or reimbursement amounts after the proceeds from the sale, transfer, or  
35 reimbursement are received. The commission shall also prescribe how any profits from  
36 such sale or transfer are shared between the electrical corporation and ratepayers. Credits  
37 made to ratepayers shall include interest on the uncredited balance at a rate per annum  
38 equal to the electrical corporation's commission-approved short-term borrowing rate.

39 **5. If an electrical corporation that obtains an early site permit does not obtain a**  
40 **combined license from the U.S. Nuclear Regulatory Commission, or a successor**  
41 **organization, for the construction and operation of a nuclear generating facility by the time**  
42 **the early site permit expires, or does not commence construction of such a facility by the**  
43 **time the early site permit expires, the commission shall open a proceeding to examine**  
44 **whether the electrical corporation was imprudent in not obtaining the combined license**  
45 **or not commencing construction by the time the early site permit expired. If, after hearing,**  
46 **the commission determines that the electrical corporation acted imprudently, the**  
47 **commission shall require the electrical corporation and any other applicable electrical**  
48 **corporation to credit to ratepayers the amount of revenues deemed imprudent by the**  
49 **commission that each electrical corporation collected under subsection 3 of this section.**  
50 **If ratepayer credits are ordered, such credits shall return to ratepayers, over a period of**  
51 **not less than five nor more than ten years, the amount of revenues deemed imprudent by**  
52 **the commission, including interest on the uncredited balance at a rate per annum equal to**  
53 **the electrical corporation's commission-approved short-term borrowing rate.**

393.275. 1. The commission shall notify the governing body of each city or county  
2 imposing a business license tax pursuant to section 66.300, 92.045, 94.110, 94.270 or 94.360,  
3 RSMo, or a similar tax adopted pursuant to charter provisions in any constitutional charter city  
4 with a population of at least three hundred fifty thousand inhabitants which is located in more  
5 than one county, on gross receipts of any gas corporation, electric corporation, water corporation  
6 or sewer corporation of any tariff increases authorized for such firm doing business in that city  
7 or county if the approved increase exceeds seven percent. The commission shall include with  
8 such notice to any city or county the percentage increase approved for the utility, together with  
9 an estimate of the annual increase in gross receipts resulting from the tariff increase on customers  
10 residing in that city or county. The provisions of this subsection shall not apply to rate  
11 adjustments in the purchase price of natural gas which are approved by the commission.

12 2. The governing body of each city or county notified of a tariff increase as provided in  
13 subsection 1 of this section shall reduce the tax rate of its business license tax on the gross  
14 receipts of utility corporations. Within sixty days of the effective date of the tariff increase, the



15 tax rate shall be reduced to the extent necessary so that revenue for the ensuing twelve months  
16 will be approximately equal to the revenue received during the preceding twelve months plus a  
17 growth factor. The growth factor shall be equal to the average of the additional revenue received  
18 in each of the preceding three years. However, a city or county may maintain the tax rate of its  
19 business license tax on the gross receipts of utility corporations without reduction if an ordinance  
20 to maintain the tax rate is enacted by the governing body of the city or an order to maintain the  
21 tax rate is issued by the governing body of the county after September 28, 1985. The provisions  
22 of this subsection shall not apply to rate adjustments in the purchase price of natural gas which  
23 are approved by the commission **and such purchased gas adjustment rates shall include the**  
24 **gas cost portion of net write-offs incurred by the gas corporation in providing service to**  
25 **system sales customers upon the filing and approval of new rate schedules applicable to**  
26 **such customers. Such rate schedules shall be designed to simultaneously decrease the gas**  
27 **corporation's base rates and increase its purchased gas adjustment rates by like amounts**  
28 **so as to reasonably ensure that the gas cost portion of the net write-offs applicable to such**  
29 **customers, as such portion is determined by the commission, is only being recovered once**  
30 **through the gas corporation's purchased gas adjustment rates. Increases and decreases**  
31 **in the gas cost portion of net write-offs shall thereafter be reflected in the gas corporation's**  
32 **purchased gas adjustment rates under tariff provisions approved by the commission**  
33 **provided, however, that such tariff provisions shall:**

34 (1) **Limit increases or decreases in the gas cost portion of net write-offs as reflected**  
35 **in purchased gas adjustment rates to once each year;**

36 (2) **Require a true-up of the gas cost portion of net write-offs as reflected in**  
37 **purchased gas adjustment rates once each year; and**

38 (3) **Require commission review of the gas cost portion of net write-offs as reflected**  
39 **in purchased gas adjustment rates once each year to ensure that the gas corporation is**  
40 **prudently pursuing collection of amounts owed by its customers.**

393.1000. As used in sections 393.1000 to 393.1006, the following terms mean:

2 (1) "Appropriate pretax revenues", the revenues necessary to produce net operating  
3 income equal to:

4 (a) The water corporation's weighted cost of capital multiplied by the net original cost  
5 of eligible infrastructure system replacements, including recognition of accumulated deferred  
6 income taxes and accumulated depreciation associated with eligible infrastructure system  
7 replacements which are included in a currently effective ISRS; and

8 (b) Recover state, federal, and local income or excise taxes applicable to such income;  
9 and

10 (c) Recover all other ISRS costs;

- 11 (2) "Commission", the Missouri public service commission;
- 12 (3) "Eligible infrastructure system replacements"[,] :
- 13 (a) Water utility plant projects that:
- 14 [(a)] **a.** Replace or extend the useful life of existing infrastructure;
- 15 [(b)] **b.** Are in service and used and useful;
- 16 [(c)] **c.** Do not increase revenues by directly connecting the infrastructure replacement
- 17 to new customers; and
- 18 [(d)] **d.** Were not included in the water corporation's rate base in its most recent general
- 19 rate case; **and**
- 20 (b) **Energy efficiency projects that:**
- 21 **a. Are in service and used and useful;**
- 22 **b. Do not increase revenues by directly connecting the infrastructure replacements**
- 23 **to new customers; and**
- 24 **c. Were not included in the water corporation's rate base in its most recent general**
- 25 **rate case;**
- 26 (4) **"Energy efficiency", measures that reduce the amount of energy required to**
- 27 **achieve a given end result;**
- 28 (5) "ISRS", infrastructure system replacement surcharge;
- 29 [(5)] (6) "ISRS costs", depreciation expenses and property taxes that will be due within
- 30 twelve months of the ISRS filing;
- 31 [(6)] (7) "ISRS revenues", revenues produced through an ISRS, exclusive of revenues
- 32 from all other rates and charges;
- 33 [(7)] (8) "Water corporation", every corporation, company, association, joint stock
- 34 company or association, partnership, and person, their lessees, trustees, or receivers appointed
- 35 by any court whatsoever, owning, operating, controlling, or managing any plant or property, dam
- 36 or water supply, canal, or power station, distributing or selling for distribution, or selling or
- 37 supplying for gain any water [to more than ten thousand customers];
- 38 [(8)] (9) "Water utility plant projects" may consist only of the following:
- 39 (a) Mains, [and associated] valves [and] , hydrants, **service lines, and meters** installed
- 40 as replacements for existing facilities that have worn out or are in deteriorated condition **or**
- 41 **replaced as part of a commission order;**
- 42 (b) Main cleaning and relining projects; [and]
- 43 (c) Facilities relocations required due to construction or improvement of a highway,
- 44 road, street, public way, or other public work by or on behalf of the United States, this state, a
- 45 political subdivision of this state, or another entity having the power of eminent domain provided
- 46 that the costs related to such projects have not been reimbursed to the water corporation; **and**

47           **(d) Energy efficiency projects.**

393.1003. 1. Notwithstanding any provisions of chapter 386, RSMo, and this chapter  
2 to the contrary, as of August 28, [2003] **2011**, a water corporation [providing water service in  
3 a county with a charter form of government and with more than one million inhabitants] may file  
4 a petition and proposed rate schedules with the commission to establish or change ISRS rate  
5 schedules that will allow for the adjustment of the water corporation's rates and charges to  
6 provide for the recovery of costs for eligible infrastructure system replacements [made in such  
7 county with a charter form of government and with more than one million inhabitants;] ,  
8 provided that an ISRS, on an annualized basis, must produce ISRS revenues of at least one  
9 million dollars, **or ten thousand dollars for a small water corporation as defined in section**  
10 **393.146**, but not in excess of ten percent of the water corporation's base revenue level approved  
11 by the commission in the water corporation's most recent general rate proceeding. An ISRS and  
12 any future changes thereto shall be calculated and implemented in accordance with the provisions  
13 of sections 393.1000 to 393.1006. ISRS revenues shall be subject to refund based upon a finding  
14 and order of the commission, to the extent provided in subsections 5 and 8 of section 393.1006.

15           2. The commission shall not approve an ISRS for a water corporation [in a county with  
16 a charter form of government and with more than one million inhabitants] that has not had a  
17 general rate proceeding decided or dismissed by issuance of a commission order within the past  
18 three years, unless the water corporation has filed for or is the subject of a new general rate  
19 proceeding.

20           3. In no event shall a water corporation collect an ISRS for a period exceeding three  
21 years unless the water corporation has filed for or is the subject of a new general rate proceeding;  
22 provided that the ISRS may be collected until the effective date of new rate schedules established  
23 as a result of the new general rate proceeding, or until the subject general rate proceeding is  
24 otherwise decided or dismissed by issuance of a commission order without new rates being  
25 established.

393.1075. 1. This section shall be known as the "Missouri Energy Efficiency Investment  
2 Act".

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

4           (1) "Commission", the Missouri public service commission;

5           (2) "Demand response", measures that decrease peak demand or shift demand to off-peak  
6 periods;

7           (3) "Demand-side program", any program conducted by the utility to modify the net  
8 consumption of electricity on the retail customer's side of the electric meter, including but not  
9 limited to energy efficiency measures, load management, demand response, and interruptible or  
10 curtailable load;

11 (4) "Energy efficiency", measures that reduce the amount of electricity required to  
12 achieve a given end use;

13 (5) "Interruptible or curtailable rate", a rate under which a customer receives a reduced  
14 charge in exchange for agreeing to allow the utility to withdraw the supply of electricity under  
15 certain specified conditions;

16 (6) "Total resource cost test", a test that compares the sum of avoided utility costs and  
17 avoided probable environmental compliance costs to the sum of all incremental costs of end-use  
18 measures that are implemented due to the program, as defined by the commission in rules.

19 3. It shall be the policy of the state to value demand-side investments equal to traditional  
20 investments in supply and delivery infrastructure and allow recovery of all reasonable and  
21 prudent costs of delivering cost-effective demand-side programs. In support of this policy, the  
22 commission shall:

23 (1) Provide timely cost recovery for utilities;

24 (2) Ensure that utility financial incentives are aligned with helping customers use energy  
25 more efficiently and in a manner that sustains or enhances utility customers' incentives to use  
26 energy more efficiently; and

27 (3) Provide timely earnings opportunities associated with cost-effective measurable and  
28 verifiable efficiency savings.

29 4. The commission shall permit electric corporations to implement  
30 commission-approved demand-side programs proposed pursuant to this section with a goal of  
31 achieving all cost-effective demand-side savings. Recovery for such programs shall not be  
32 permitted unless the programs are approved by the commission, result in energy or demand  
33 savings and are beneficial to all customers in the customer class in which the programs are  
34 proposed, regardless of whether the programs are utilized by all customers. The commission  
35 shall consider the total resource cost test a preferred cost-effectiveness test. Programs targeted  
36 to low-income customers or general education campaigns do not need to meet a  
37 cost-effectiveness test, so long as the commission determines that the program or campaign is  
38 in the public interest. Nothing herein shall preclude the approval of demand-side programs that  
39 do not meet the test if the costs of the program above the level determined to be cost-effective  
40 are funded by the customers participating in the program or through tax or other governmental  
41 credits or incentives specifically designed for that purpose.

42 5. To comply with this section the commission may develop cost recovery mechanisms  
43 to further encourage investments in demand-side programs including, in combination and  
44 without limitation: capitalization of investments in and expenditures for demand-side programs,  
45 rate design modifications, accelerated depreciation on demand-side investments, and allowing  
46 the utility to retain a portion of the net benefits of a demand-side program for its shareholders.

47 In setting rates the commission shall fairly apportion the costs and benefits of demand-side  
48 programs to each customer class except as provided for in subsection 6 of this section. Prior to  
49 approving a rate design modification associated with demand-side cost recovery, the commission  
50 shall conclude a docket studying the effects thereof and promulgate an appropriate rule.

51 6. The commission may reduce or exempt allocation of demand-side expenditures to  
52 low-income classes, as defined in an appropriate rate proceeding, as a subclass of residential  
53 service.

54 7. Provided that the customer has notified the electric corporation that the customer  
55 elects not to participate in demand-side measures offered by an electrical corporation, none of  
56 the costs of demand-side measures of an electric corporation offered under this section or by any  
57 other authority, and no other charges implemented in accordance with this section, shall be  
58 assigned to any account of any customer, including its affiliates and subsidiaries, meeting one  
59 or more of the following criteria:

60 (1) The customer has one or more accounts within the service territory of the electrical  
61 corporation that has a demand of five thousand kilowatts or more;

62 (2) The customer operates an interstate pipeline pumping station, regardless of size; or

63 (3) The customer has accounts within the service territory of the electrical corporation  
64 that have, in aggregate, a demand of two thousand five hundred kilowatts or more, and the  
65 customer has a comprehensive demand-side or energy efficiency program and can demonstrate  
66 an achievement of savings at least equal to those expected from utility-provided programs.

67 8. Customers that have notified the electrical corporation that they do not wish to  
68 participate in demand-side programs under this section shall not subsequently be eligible to  
69 participate in demand-side programs except under guidelines established by the commission in  
70 rulemaking.

71 9. Customers who participate in demand-side programs initiated after August 1, 2009,  
72 shall be required to participate in program funding for a period of time to be established by the  
73 commission in rulemaking.

74 10. Customers electing not to participate in an electric corporation's demand-side  
75 programs under this section shall still be allowed to participate in interruptible or curtailable rate  
76 schedules or tariffs offered by the electric corporation.

77 11. The commission shall provide oversight and may adopt rules and procedures and  
78 approve corporation-specific settlements and tariff provisions, independent evaluation of  
79 demand-side programs, as necessary, to ensure that electric corporations can achieve the goals  
80 of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is  
81 created under the authority delegated in this section shall become effective only if it complies  
82 with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028.

83 This section and chapter 536 are nonseverable and if any of the powers vested with the general  
84 assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and  
85 annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and  
86 any rule proposed or adopted after August 28, 2009, shall be invalid and void.

87 12. Each electric corporation shall submit an annual report to the commission describing  
88 the demand-side programs implemented by the utility in the previous year. The report shall  
89 document program expenditures, including incentive payments, peak demand and energy savings  
90 impacts and the techniques used to estimate those impacts, avoided costs and the techniques used  
91 to estimate those costs, the estimated cost-effectiveness of the demand-side programs, and the  
92 net economic benefits of the demand-side programs.

93 13. Charges attributable to demand-side programs under this section shall be clearly  
94 shown as a separate line item on bills to the electrical corporation's customers.

95 14. (1) Any customer of an electrical corporation who has received a state tax credit  
96 under sections 135.350 to 135.362 or under sections 253.545 to 253.561 shall not be eligible for  
97 participation in any demand-side program offered by an electrical corporation under this section  
98 if such program offers a monetary incentive to the customer, **unless it is for a low-income**  
99 **program.**

100 (2) As a condition of participation in any demand-side program offered by an electrical  
101 corporation under this section when such program offers a monetary incentive to the customer,  
102 the commission shall develop rules that require documentation to be provided by the customer  
103 to the electrical corporation to show that the customer has not received a tax credit listed in  
104 subdivision (1) of this subsection.

105 (3) The penalty for a customer who provides false documentation under subdivision (2)  
106 of this subsection shall be a class A misdemeanor.

107 15. The commission shall develop rules that provide for disclosure of participants in all  
108 demand-side programs offered by electrical corporations under this section when such programs  
109 provide monetary incentives to the customer. The disclosure required by this subsection may  
110 include, but not be limited to, the following: the name of the participant, or the names of the  
111 principles if for a company, the property address, and the amount of the monetary incentive  
112 received.

414.530. 1. The director shall conduct a referendum as soon as possible among  
2 producers and Missouri retail marketers of propane to authorize the creation of the "Missouri  
3 Propane Education and Research Council" and the levying of an assessment on odorized  
4 propane. Upon approval of those persons representing two-thirds of the total gallonage of  
5 odorized propane voted in the retail marketer class and two-thirds of all propane voted in the  
6 producer class, meaning propane sold or produced in the previous calendar year or other

7 representative period, the director shall issue an order establishing the council and call for  
8 nominations to the council from qualified industry organizations. All persons voting in the  
9 referendum shall certify to the director the number of gallons represented by their vote.

10 2. [On the director's own initiative,] Upon petition of the council or of producers and  
11 marketers representing thirty-five percent of the gallons in each class, the director shall hold a  
12 referendum to determine whether the industry favors termination or suspension of the order. The  
13 termination or suspension shall not take effect unless it is approved by those persons representing  
14 more than one-half of the total gallonage of odorized propane in the marketer class and one-half  
15 of all propane in the producer class.

16 3. The director may require such reports or documentation as is necessary to document  
17 the referendum process [and the nomination process for members of the council] and shall  
18 protect the confidentiality of all such documentation provided by industry members. Information  
19 regarding propane produced or marketed by persons voting shall be a closed record.

414.560. 1. Upon issuance of an order by the director establishing the Missouri propane  
2 education and research council, the director shall select all members of the council from a list  
3 of nominees submitted by qualified industry organizations. **Subsequent appointments shall**  
4 **be selected by the council following a public nomination process.** Vacancies in unfinished  
5 terms of council members may be filled by the council[, subject to approval of the director].

6 2. In making nominations and appointments to the council, the qualified industry  
7 organizations [and the director] shall give due regard to selecting a council that is representative  
8 of the industry, and the geographic regions of the state.

9 3. The council shall consist of fifteen members, with nine members representing retail  
10 marketers of propane; three members representing wholesalers or resellers of propane; two  
11 members representing manufacturers and distributors of gas use equipment, wholesalers or  
12 resellers, or transporters; and one public member. Other than the public member, council  
13 members shall be full-time employees or owners of businesses in the industry.

14 4. Council members shall receive no compensation for their services, but shall be  
15 reimbursed for reasonable expenses incurred in the performance of their duties.

16 5. Council members shall serve terms of three years; except that of the initial members  
17 appointed, five shall be appointed for terms of one year, five shall be appointed for terms of two  
18 years and five shall be appointed for terms of three years. Members may be appointed to a  
19 maximum of two consecutive full terms. Members filling unexpired terms will not have any  
20 partial term of service count against the two-term limitation. Former members of the council  
21 may be reappointed to the council if they have not been members for a period of one year.

22 6. The council shall select from among its members a chairman and other officers as  
23 necessary, establish committees and subcommittees of the council, and adopt rules and bylaws

24 for the conduct of business. The council may establish advisory committees of persons other  
25 than council members.

26 7. The council may employ a president to serve as chief executive officer and such other  
27 employees as it deems necessary. The council may enter into contracts with, use facilities and  
28 equipment of, or employ personnel of a qualified industry organization in carrying out its  
29 responsibilities under sections 414.500 to 414.590. It shall determine the compensation and  
30 duties of each, and protect the handling of council funds through fidelity bonds.

31 8. At **least thirty days prior** to the beginning of each fiscal period, the council shall  
32 prepare and submit [to the director] **for public comment** a budget plan including the probable  
33 costs of all programs, projects and contracts and a recommended rate of assessment sufficient  
34 to cover such costs. [The director shall approve or recommend changes to the budget after an  
35 opportunity for public comment.] **The council shall approve or modify the budget following**  
36 **the public comment period.**

37 9. The council shall develop programs and projects and enter into contracts or  
38 agreements for implementing the policy of sections 414.500 to 414.590, including programs of  
39 research, development, education, and marketing, and for the payment of the costs thereof with  
40 funds collected pursuant to sections 414.500 to 414.590. The council shall coordinate its  
41 activities with industry trade associations to provide efficient delivery of services and to avoid  
42 unnecessary duplication of activities.

43 10. The council shall keep minutes, books, **and** records that clearly reflect all of the acts  
44 and transactions of the council and regularly report such information to the director[, along with  
45 such other information as the director may require]. The books of the council shall be audited  
46 by a certified public accountant at least once each fiscal year and at such other times as the  
47 council may designate. Copies of such audit shall be provided to the director, all members of  
48 the council, all qualified industry organizations, and to other members of the industry upon  
49 request. [The director shall receive notice of meetings and may require reports on the activities  
50 of the council, as well as reports on compliance, violations and complaints regarding the  
51 implementation of sections 414.500 to 414.590.]

52 11. From assessments collected, the council shall annually reimburse the director for  
53 costs incurred in holding the referendum establishing the council[, making appointments to the  
54 council,] and other expenses directly related to the council.

414.570. 1. The council shall set the initial assessment at no greater than one-tenth of  
2 one cent per gallon. Thereafter, annual assessments shall be sufficient to cover the costs of the  
3 plans and programs developed by the council and approved [by the director] **following public**  
4 **comment**. The assessment shall not be greater than one-half cent per gallon of odorized



5 propane. The assessment may not be raised by more than one-tenth of one cent per gallon  
6 annually.

7         2. The owner of propane immediately prior to odorization in this state or the owner at  
8 the time of import into this state of odorized propane shall be responsible for the payment of the  
9 assessment on the volume of propane at the time of import or odorization, whichever is later.  
10 Assessments shall be remitted to the council on a monthly basis by the twenty-fifth of the month  
11 following the month of collection. Nonodorized propane shall not be subject to assessment until  
12 odorized.

13         3. The [director] **council** may [by regulation, with the concurrence of the council,]  
14 establish an alternative means [for the council] to collect the assessment if another means is  
15 found to be more efficient and effective. The [director] **council** may [by regulation] establish  
16 a late payment charge and rate of interest **not to exceed the legal rate for judgments** to be  
17 imposed on any person who fails to remit to the council any amount due under sections 414.500  
18 to 414.590.

19         4. Pending disbursement pursuant to a program, plan or project, the council may invest  
20 funds collected through assessments and any other funds received by the council only in  
21 obligations of the United States or any agency thereof, in general obligations of any state or any  
22 political subdivision thereof, in any interest-bearing account or certificate of deposit of a bank  
23 that is a member of the Federal Reserve System, or in obligations fully guaranteed as to principal  
24 and interest by the United States.

25         [5. The National Propane Education and Research Council, in conjunction with the  
26 United States Secretary of Energy may, by regulation, establish a program coordinating the  
27 operation of its council with the council established in section 414.530. This may include an  
28 assessment rebate, if adopted, of an amount up to twenty-five percent of the National Propane  
29 Education and Research Council assessment collected on Missouri distributed odorized propane  
30 as presented and described in section nine of the federal Propane Education and Research Act  
31 of 1992. Should the National Propane Education and Research Council, as part of the federal  
32 Propane Education and Research Act of 1992, establish such an assessment rebate on fees  
33 collected by such council, then all funds from such federal assessment rebate shall be the  
34 property of the Missouri council as established by section 414.530, and the use of such funds  
35 shall be determined by the Missouri council for the purposes as intended and presented in  
36 sections 414.500 to 414.590.]

       660.122. Funds appropriated under the authority of sections 660.100 to 660.136 may be  
2 used to pay the expenses of reconnecting or maintaining service to **eligible** households that have  
3 had their primary or secondary heating or cooling source disconnected or service discontinued  
4 because of their failure to pay their bill. Any qualified household or other household which has

5 as its head a person who is elderly or disabled, as defined in section 660.100, shall be eligible  
6 for assistance under this section if the income for the household is no more than one hundred  
7 fifty percent of the current federal poverty level or sixty percent of the state median income and  
8 if moneys have been appropriated by the general assembly to the utilicare stabilization fund  
9 established pursuant to section 660.136. Payments under this section shall be made directly to  
10 the primary or secondary heating or cooling source supplier. Any primary or secondary heating  
11 or cooling source supplier subject to the supervision and regulation of the public service  
12 commission shall, at any time during the period of the cold weather rule specified in the cold  
13 weather rule as established and as amended by the public service commission, reconnect and  
14 provide services to each household eligible for assistance under this section in compliance with  
15 the terms of such cold weather rule, **provided that such suppliers shall permit customers who**  
16 **have not yet been disconnected and who incurred an arrearage during the cold weather**  
17 **rule period to retain service by paying during each of the three months following the cold**  
18 **weather rule period an amount equal to one-third of the customer's arrearage, plus the**  
19 **customer's current bill.** All home energy suppliers receiving funds under this section shall  
20 provide service to eligible households consistent with their contractual agreements with the  
21 department of social services **and sections 660.100 to 660.136.**

2 [386.850. The Missouri energy task force created by executive order  
3 05-46 shall reconvene at least one time per year for the purpose of reviewing  
4 progress made toward meeting the recommendations set forth in the task force's  
5 final report as issued under the executive order. The task force shall issue its  
6 findings in a status report to the governor and general assembly no later than  
December thirty-first of each year.]

Section B. Because of the immediate need to provide meaningful and equitable relief to  
2 parties who may successfully pursue review of Missouri Public Service Commission orders or  
3 decisions, the repeal and reenactment of sections 386.420, 386.490, 386.510, 386.515, 386.520,  
4 and 386.530 of section A of this act are deemed necessary for the immediate preservation of the  
5 public peace, property, health, safety, or morals, and are hereby declared to be an emergency act  
6 within the meaning of the constitution, and the repeal and reenactment of sections 386.420,  
7 386.490, 386.510, 386.515, 386.520, and 386.530 of section A of this act shall be in full force  
8 and effect upon its passage and approval.

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