

SENATE SUBSTITUTE
FOR
HOUSE COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 2689

AN ACT

To repeal sections 386.266, 386.890, 393.1030, and 393.1075, RSMo, and to enact in lieu thereof twenty-eight new sections relating to the state's energy policies, with an emergency clause.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI,
AS FOLLOWS:

1 Section A. Sections 386.266, 386.890, 393.1030, and
2 393.1075, RSMo, are repealed and twenty-eight new sections
3 enacted in lieu thereof, to be known as sections 386.266,
4 386.890, 386.891, 393.1030, 393.1075, 393.1200, 393.1500,
5 393.1505, 393.1510, 393.1515, 393.1520, 393.1525, 393.1530,
6 393.1535, 393.1540, 393.1545, 393.1550, 393.1555, 393.1560,
7 393.1565, 393.1570, 393.1575, 393.1580, 393.1590, 393.1600,
8 393.1610, 393.1620, and 620.3150, to read as follows:

9 386.266. 1. Subject to the requirements of this section,
10 any electrical corporation may make an application to the
11 commission to approve rate schedules authorizing an interim
12 energy charge, or periodic rate adjustments outside of general
13 rate proceedings to reflect increases and decreases in its
14 prudently incurred fuel and purchased-power costs, including
15 transportation. Such rate schedules shall also include and
16 provide for adjustments reflecting all prudently incurred

1 transmission charges not included in the costs covered by the
2 immediately preceding sentence, and all transmission revenues,
3 paid to or received from any transmission service provider. The
4 commission may, in accordance with existing law, include in such
5 rate schedules features designed to provide the electrical
6 corporation with incentives to improve the efficiency and
7 cost-effectiveness of its fuel and purchased-power procurement
8 activities.

9 2. Subject to the requirements of this section, any
10 electrical, gas, or water corporation may make an application to
11 the commission to approve rate schedules authorizing periodic
12 rate adjustments outside of general rate proceedings to reflect
13 increases and decreases in its prudently incurred costs, whether
14 capital or expense, to comply with any federal, state, or local
15 environmental law, regulation, or rule. Any rate adjustment made
16 under such rate schedules shall not exceed an annual amount equal
17 to two and one-half percent of the electrical, gas, or water
18 corporation's Missouri gross jurisdictional revenues, excluding
19 gross receipts tax, sales tax and other similar pass-through
20 taxes not included in tariffed rates, for regulated services as
21 established in the utility's most recent general rate case or
22 complaint proceeding. In addition to the rate adjustment, the
23 electrical, gas, or water corporation shall be permitted to
24 collect any applicable gross receipts tax, sales tax, or other
25 similar pass-through taxes, and such taxes shall not be counted
26 against the two and one-half percent rate adjustment cap.
27 Any costs not recovered as a result of the annual two and
28 one-half percent limitation on rate adjustments may be deferred,

1 at a carrying cost each month equal to the utilities net of tax
2 cost of capital, for recovery in a subsequent year or in the
3 corporation's next general rate case or complaint proceeding.

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

10 4. The commission shall have the power to approve, modify,
11 or reject adjustment mechanisms submitted under subsections 1 to
12 3 of this section only after providing the opportunity for a full
13 hearing in a general rate proceeding, including a general rate
14 proceeding initiated by complaint. The commission may approve
15 such rate schedules after considering all relevant factors which
16 may affect the costs or overall rates and charges of the
17 corporation, provided that it finds that the adjustment mechanism
18 set forth in the schedules:

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

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

25 (3) In the case of an adjustment mechanism submitted under
26 subsections 1 and 2 of this section, includes provisions
27 requiring that the utility file a general rate case with the
28 effective date of new rates to be no later than four years after

1 the effective date of the commission order implementing the
2 adjustment mechanism. However, with respect to each mechanism,
3 the four-year period shall not include any periods in which the
4 utility is prohibited from collecting any charges under the
5 adjustment mechanism, or any period for which charges collected
6 under the adjustment mechanism must be fully refunded. In the
7 event a court determines that the adjustment mechanism is
8 unlawful and all moneys collected thereunder are fully refunded,
9 the utility shall be relieved of any obligation under that
10 adjustment mechanism to file a rate case;

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

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

22 6. Any amounts charged under any adjustment mechanism
23 approved by the commission under this section shall be separately
24 disclosed on each customer bill.

25 7. The commission may take into account any change in
26 business risk to the corporation resulting from implementation of
27 the adjustment mechanism in setting the corporation's allowed
28 return in any rate proceeding, in addition to any other changes

1 in business risk experienced by the corporation.

2 8. In the event the commission lawfully approves an
3 incentive- or performance-based plan, such plan shall be binding
4 on the commission for the entire term of the plan. This
5 subsection shall not be construed to authorize or prohibit any
6 incentive- or performance-based plan.

7 9. Prior to August 28, 2005, the commission shall have the
8 authority to promulgate rules under the provisions of chapter 536
9 as it deems necessary, to govern the structure, content and
10 operation of such rate adjustments, and the procedure for the
11 submission, frequency, examination, hearing and approval of such
12 rate adjustments. Such rules shall be promulgated no later than
13 one hundred fifty days after the initiation of such rulemaking
14 proceeding. Any electrical, gas, or water corporation may apply
15 for any adjustment mechanism under this section whether or not
16 the commission has promulgated any such rules.

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

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

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

1 13. The public service commission shall appoint a task
2 force, consisting of all interested parties, to study and make
3 recommendations on the cost recovery and implementation of
4 conservation and weatherization programs for electrical and gas
5 corporations.

6 386.890. 1. This section shall be known and may be cited
7 as the "Net Metering and Easy Connection Act".

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

9 (1) "Avoided fuel cost", the current average cost of fuel
10 for the entity generating electricity, as defined by the
11 governing body with jurisdiction over any municipal electric
12 utility, rural electric cooperative as provided in chapter 394,
13 or electrical corporation as provided in this chapter;

14 (2) "Commission", the public service commission of the
15 state of Missouri;

16 (3) "Customer-generator", the owner or operator of a
17 qualified electric energy generation unit which:

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

19 (b) Has an electrical generating system with a capacity of
20 not more than one hundred kilowatts;

21 (c) Is located on a premises owned, operated, leased, or
22 otherwise controlled by the customer-generator;

23 (d) Is interconnected and operates in parallel phase and
24 synchronization with a retail electric supplier and has been
25 approved by said retail electric supplier;

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

28 (f) Meets all applicable safety, performance,

1 interconnection, and reliability standards established by the
2 National Electrical Code, the National Electrical Safety Code,
3 the Institute of Electrical and Electronics Engineers,
4 Underwriters Laboratories, the Federal Energy Regulatory
5 Commission, and any local governing authorities; and

6 (g) Contains a mechanism that automatically disables the
7 unit and interrupts the flow of electricity back onto the
8 supplier's electricity lines in the event that service to the
9 customer-generator is interrupted;

10 (4) "Department", the department of natural resources;

11 (5) "Net metering", using metering equipment sufficient to
12 measure the difference between the electrical energy supplied to
13 a customer-generator by a retail electric supplier and the
14 electrical energy supplied by the customer-generator to the
15 retail electric supplier over the applicable billing period;

16 (6) "Renewable energy resources", electrical energy
17 produced from wind, solar thermal sources, hydroelectric sources,
18 photovoltaic cells and panels, fuel cells using hydrogen produced
19 by one of the above-named electrical energy sources, biomass, and
20 other sources of energy that become available after August 28,
21 2007, and are certified as renewable by the department;

22 (7) "Retail electric supplier" or "supplier", any municipal
23 utility, electrical corporation regulated under this chapter, or
24 rural electric cooperative under chapter 394 that provides retail
25 electric service in this state.

26 3. A retail electric supplier shall:

27 (1) Make net metering available to customer-generators on a
28 first-come, first-served basis until the total rated generating

1 capacity of net metering systems equals five percent of the
2 utility's single-hour peak load during the previous year, after
3 which the commission for a public utility or the governing body
4 for other electric utilities may increase the total rated
5 generating capacity of net metering systems to an amount above
6 five percent. However, in a given calendar year, no retail
7 electric supplier shall be required to approve any application
8 for interconnection if the total rated generating capacity of all
9 applications for interconnection already approved to date by said
10 supplier in said calendar year equals or exceeds one percent of
11 said supplier's single-hour peak load for the previous calendar
12 year;

13 (2) Offer to the customer-generator a tariff or contract
14 that is identical in electrical energy rates, rate structure, and
15 monthly charges to the contract or tariff that the customer would
16 be assigned if the customer were not an eligible
17 customer-generator but shall not charge the customer-generator
18 any additional standby, capacity, interconnection, or other fee
19 or charge that would not otherwise be charged if the customer
20 were not an eligible customer-generator; and

21 (3) Disclose annually the availability of the net metering
22 program to each of its customers with the method and manner of
23 disclosure being at the discretion of the supplier.

24 4. A customer-generator's facility shall be equipped with
25 sufficient metering equipment that can measure the net amount of
26 electrical energy produced or consumed by the customer-generator.
27 If the customer-generator's existing meter equipment does not
28 meet these requirements or if it is necessary for the electric

1 supplier to install additional distribution equipment to
2 accommodate the customer-generator's facility, the
3 customer-generator shall reimburse the retail electric supplier
4 for the costs to purchase and install the necessary additional
5 equipment. At the request of the customer-generator, such costs
6 may be initially paid for by the retail electric supplier, and
7 any amount owed by the customer-generator up to the total costs
8 and a reasonable interest charge may be recovered from the
9 customer-generator over the course of up to twelve billing
10 cycles. Any subsequent meter testing, maintenance or meter
11 equipment change necessitated by the customer-generator shall be
12 paid for by the customer-generator.

13 5. Consistent with the provisions in this section, the net
14 electrical energy measurement shall be calculated in the
15 following manner:

16 (1) For a customer-generator, a retail electric supplier
17 shall measure the net electrical energy produced or consumed
18 during the billing period in accordance with normal metering
19 practices for customers in the same rate class, either by
20 employing a single, bidirectional meter that measures the amount
21 of electrical energy produced and consumed, or by employing
22 multiple meters that separately measure the customer-generator's
23 consumption and production of electricity;

24 (2) If the electricity supplied by the supplier exceeds the
25 electricity generated by the customer-generator during a billing
26 period, the customer-generator shall be billed for the net
27 electricity supplied by the supplier in accordance with normal
28 practices for customers in the same rate class;

1 (3) For a customer of an electrical corporation, other than
2 an electrical corporation regulated under chapters 386 and 393
3 that is not subject to the commission's jurisdiction over its
4 rates, financing, accounting, or management under subsection 2 of
5 section 393.110, who is a customer-generator that operates an
6 electrical generating system with a capacity of up to ten
7 kilowatts under an interconnection agreement that became
8 effective between the effective date of section 386.891 and
9 December 31, 2026, and is billed monthly, credit amounts may be
10 carried over month to month; provided however, at the end of each
11 annual period, any credit owed for excess kilowatt-hours
12 generated shall be credited to the customer on their next bill
13 equal to the avoided fuel cost of the electrical corporation; and
14 provided further, that such customer shall be entitled to such
15 annual true-up process for a period of twenty years after the
16 interconnection agreement became effective. For a customer of an
17 electrical corporation, other than an electrical corporation
18 regulated under chapters 386 and 393 that is not subject to the
19 commission's jurisdiction over its rates, financing, accounting,
20 or management under subsection 2 of section 393.110, who is a
21 customer-generator that operates an electrical generating system
22 with a capacity of greater than ten kilowatts but not more than
23 three hundred kilowatts under an interconnection agreement that
24 became effective between the effective date of section 386.891
25 and December 31, 2026, and is billed monthly, credit amounts may
26 be carried over month to month; provided however, at the end of
27 each semi-annual period, any credit owed for excess kilowatt-
28 hours generated shall be credited to the customer on their next

1 bill equal to the avoided fuel cost of the electrical
2 corporation; and provided further, that such customer shall be
3 entitled to such semi-annual true-up process for a period of
4 twenty years after the interconnection agreement became
5 effective. For all retail electric suppliers, if the electricity
6 generated by the customer-generator exceeds the electricity
7 supplied by the supplier during a billing period, the
8 customer-generator shall be billed for the appropriate customer
9 charges for that billing period in accordance with subsection 3
10 of this section and shall be credited an amount at least equal to
11 the avoided fuel cost of the excess kilowatt-hours generated
12 during the billing period, with this credit applied to the
13 following billing period;

14 (4) Any credits granted by this subsection shall expire
15 without any compensation at the earlier of either twelve months
16 after their issuance or when the customer-generator disconnects
17 service or terminates the net metering relationship with the
18 supplier;

19 (5) For any rural electric cooperative under chapter 394,
20 or municipal utility, upon agreement of the wholesale generator
21 supplying electric energy to the retail electric supplier, at the
22 option of the retail electric supplier, the credit to the
23 customer-generator may be provided by the wholesale generator.

24 6. (1) Each qualified electric energy generation unit used
25 by a customer-generator shall meet all applicable safety,
26 performance, interconnection, and reliability standards
27 established by any local code authorities, the National
28 Electrical Code, the National Electrical Safety Code, the

1 Institute of Electrical and Electronics Engineers, and
2 Underwriters Laboratories for distributed generation. No
3 supplier shall impose any fee, charge, or other requirement not
4 specifically authorized by this section or the rules promulgated
5 under subsection 9 of this section unless the fee, charge, or
6 other requirement would apply to similarly situated customers who
7 are not customer-generators, except that a retail electric
8 supplier may require that a customer-generator's system contain a
9 switch, circuit breaker, fuse, or other easily accessible device
10 or feature located in immediate proximity to the
11 customer-generator's metering equipment that would allow a
12 utility worker the ability to manually and instantly disconnect
13 the unit from the utility's electric distribution system;

14 (2) For systems of ten kilowatts or less, a
15 customer-generator whose system meets the standards and rules
16 under subdivision (1) of this subsection shall not be required to
17 install additional controls, perform or pay for additional tests
18 or distribution equipment, or purchase additional liability
19 insurance beyond what is required under subdivision (1) of this
20 subsection and subsection 4 of this section;

21 (3) For customer-generator systems of greater than ten
22 kilowatts, the commission for public utilities and the governing
23 body for other utilities shall, by rule or equivalent formal
24 action by each respective governing body:

25 (a) Set forth safety, performance, and reliability
26 standards and requirements; and

27 (b) Establish the qualifications for exemption from a
28 requirement to install additional controls, perform or pay for

1 additional tests or distribution equipment, or purchase
2 additional liability insurance.

3 7. (1) Applications by a customer-generator for
4 interconnection of a qualified electric energy generation unit
5 meeting the requirements of subdivision (3) of subsection 2 of
6 this section to the distribution system shall be accompanied by
7 the plan for the customer-generator's electrical generating
8 system, including but not limited to a wiring diagram and
9 specifications for the generating unit, and shall be reviewed and
10 responded to by the retail electric supplier within thirty days
11 of receipt for systems ten kilowatts or less and within ninety
12 days of receipt for all other systems. Prior to the
13 interconnection of the qualified generation unit to the
14 supplier's system, the customer-generator will furnish the retail
15 electric supplier a certification from a qualified professional
16 electrician or engineer that the installation meets the
17 requirements of subdivision (1) of subsection 6 of this section.
18 If the application for interconnection is approved by the retail
19 electric supplier and the customer-generator does not complete
20 the interconnection within one year after receipt of notice of
21 the approval, the approval shall expire and the
22 customer-generator shall be responsible for filing a new
23 application.

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

28 8. Each commission-regulated supplier shall submit an

1 annual net metering report to the commission, and all other
2 nonregulated suppliers shall submit the same report to their
3 respective governing body and make said report available to a
4 consumer of the supplier upon request, including the following
5 information for the previous calendar year:

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

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

9 (3) The total estimated net kilowatt-hours received from
10 customer-generators.

11 9. The commission shall, within nine months of January 1,
12 2008, promulgate initial rules necessary for the administration
13 of this section for public utilities, which shall include
14 regulations ensuring that simple contracts will be used for
15 interconnection and net metering. For systems of ten kilowatts
16 or less, the application process shall use an all-in-one document
17 that includes a simple interconnection request, simple
18 procedures, and a brief set of terms and conditions. Any rule or
19 portion of a rule, as that term is defined in section 536.010,
20 that is created under the authority delegated in this section
21 shall become effective only if it complies with and is subject to
22 all of the provisions of chapter 536 and, if applicable, section
23 536.028. This section and chapter 536 are nonseverable and if
24 any of the powers vested with the general assembly under chapter
25 536 to review, to delay the effective date, or to disapprove and
26 annul a rule are subsequently held unconstitutional, then the
27 grant of rulemaking authority and any rule proposed or adopted
28 after August 28, 2007, shall be invalid and void.

1 10. The governing body of a rural electric cooperative or
2 municipal utility shall, within nine months of January 1, 2008,
3 adopt policies establishing a simple contract to be used for
4 interconnection and net metering. For systems of ten kilowatts
5 or less, the application process shall use an all-in-one document
6 that includes a simple interconnection request, simple
7 procedures, and a brief set of terms and conditions.

8 11. For any cause of action relating to any damages to
9 property or person caused by the generation unit of a
10 customer-generator or the interconnection thereof, the retail
11 electric supplier shall have no liability absent clear and
12 convincing evidence of fault on the part of the supplier.

13 12. The estimated generating capacity of all net metering
14 systems operating under the provisions of this section shall
15 count towards the respective retail electric supplier's
16 accomplishment of any renewable energy portfolio target or
17 mandate adopted by the Missouri general assembly.

18 13. The sale of qualified electric generation units to any
19 customer-generator shall be subject to the provisions of sections
20 407.700 to 407.720. The attorney general shall have the
21 authority to promulgate in accordance with the provisions of
22 chapter 536 rules regarding mandatory disclosures of information
23 by sellers of qualified electric generation units.

24 Any interested person who believes that the seller of any
25 electric generation unit is misrepresenting the safety or
26 performance standards of any such systems, or who believes that
27 any electric generation unit poses a danger to any property or
28 person, may report the same to the attorney general, who shall be

1 authorized to investigate such claims and take any necessary and
2 appropriate actions.

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

5 15. No consumer shall connect or operate an electric
6 generation unit in parallel phase and synchronization with any
7 retail electric supplier without written approval by said
8 supplier that all of the requirements under subdivision (1) of
9 subsection 7 of this section have been met. For a consumer who
10 violates this provision, a supplier may immediately and without
11 notice disconnect the electric facilities of said consumer and
12 terminate said consumer's electric service.

13 16. The manufacturer of any electric generation unit used
14 by a customer-generator may be held liable for any damages to
15 property or person caused by a defect in the electric generation
16 unit of a customer-generator.

17 17. The seller, installer, or manufacturer of any electric
18 generation unit who knowingly misrepresents the safety aspects of
19 an electric generation unit may be held liable for any damages to
20 property or person caused by the electric generation unit of a
21 customer-generator.

22 18. This section shall not be in effect beginning with the
23 effective date of section 386.891 through December 31, 2026.

24 386.891. 1. Notwithstanding section 386.890 to the
25 contrary, this section shall be known and may be cited as the
26 "Net Metering and Easy Connection Act".

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

28 (1) "Avoided fuel cost", the current average cost of fuel

1 for the entity generating electricity, as defined by the
2 governing body with jurisdiction over any municipal electric
3 utility, rural electric cooperative as provided in chapter 394,
4 or electrical corporation as provided in this chapter;

5 (2) "Commission", the public service commission of the
6 state of Missouri;

7 (3) "Customer-generator", the owner, lessee, or operator of
8 a qualified electric energy generation unit which:

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

10 (b) Has an electrical generating system with a capacity of
11 not more than either:

12 a. Three hundred kilowatts if the customer-generator is
13 served by an electrical corporation; or

14 b. One hundred kilowatts in all other instances;

15 (c) Is located on a premises owned, operated, leased, or
16 otherwise controlled by the customer-generator;

17 (d) Is interconnected and operates in parallel phase and
18 synchronization with a retail electric supplier and has been
19 approved by said retail electric supplier;

20 (e) Is intended primarily to offset part or all of the
21 customer-generator's own electrical energy requirements;

22 (f) Meets all applicable safety, performance,
23 interconnection, and reliability standards established by the
24 National Electrical Code, the National Electrical Safety Code,
25 the Institute of Electrical and Electronics Engineers,
26 Underwriters Laboratories, the Federal Energy Regulatory
27 Commission, and any local governing authorities; and

28 (g) Contains a mechanism that automatically disables the

1 unit and interrupts the flow of electricity back onto the
2 supplier's electricity lines in the event that service to the
3 customer-generator is interrupted;

4 (4) "Department", the department of economic development,
5 division of energy;

6 (5) "Net metering", using metering equipment sufficient to
7 measure the difference between the electrical energy supplied to
8 a customer-generator by a retail electric supplier and the
9 electrical energy supplied by the customer-generator to the
10 retail electric supplier over the applicable billing period;

11 (6) "Renewable energy resources", electrical energy
12 produced from wind, solar thermal sources, hydroelectric sources,
13 photovoltaic cells and panels, fuel cells using hydrogen produced
14 by one of the above-named electrical energy sources, biomass, and
15 other sources of energy that become available after August 28,
16 2007, and are certified as renewable by the department;

17 (7) "Retail electric supplier" or "supplier", any municipal
18 utility, electrical corporation regulated under this chapter, or
19 rural electric cooperative under chapter 394 that provides retail
20 electric service in this state. For the purposes of this
21 section, an electrical corporation regulated under chapters 386
22 and 393 but not subject to the commission's jurisdiction over its
23 rates, financing, accounting, or management under subsection 2 of
24 section 393.110, shall be deemed to be a rural electric
25 cooperative.

26 3. A retail electric supplier shall:

27 (1) Make net metering available to customer-generators on a
28 first-come, first-served basis until the total rated generating

1 capacity of net metering systems equals five percent of a
2 municipally owned utility's or rural electric cooperative's
3 single-hour peak load during the previous year, or seven percent
4 of an electrical corporation's single-hour peak load during the
5 previous year, after which the public service commission or the
6 governing body for other electric utilities may increase the
7 total rated generating capacity of net metering systems to an
8 amount above such levels. However, in a given calendar year, no
9 retail electric supplier shall be required to approve any
10 application for interconnection if the total rated generating
11 capacity of all applications for interconnection already approved
12 to date by said supplier in said calendar year equals or exceeds
13 one percent of said supplier's single-hour peak load for the
14 previous calendar year;

15 (2) Offer to the customer-generator a tariff or contract
16 that is identical in electrical energy rates, rate structure, and
17 monthly charges to the contract or tariff that the customer would
18 be assigned if the customer were not an eligible customer-
19 generator but shall not charge the customer-generator any
20 additional standby, capacity, interconnection, or other fee or
21 charge that would not otherwise be charged if the customer were
22 not an eligible customer-generator; and

23 (3) Disclose annually the availability of the net metering
24 program to each of its customers with the method and manner of
25 disclosure being at the discretion of the supplier.

26 4. A customer-generator's facility shall be equipped with
27 sufficient metering equipment that can measure the net amount of
28 electrical energy produced or consumed by the customer-generator.

1 If the customer-generator's existing meter equipment does not
2 meet these requirements or if it is necessary for the electric
3 supplier to install additional distribution equipment to
4 accommodate the customer-generator's facility, the customer-
5 generator shall reimburse the retail electric supplier for the
6 costs to purchase and install the necessary additional equipment.
7 At the request of the customer-generator, such costs may be
8 initially paid for by the retail electric supplier, and any
9 amount up to the total costs paid for by the retail electric
10 supplier and a reasonable interest charge may be recovered from
11 the customer-generator over the course of up to twelve billing
12 cycles. Any subsequent meter testing, maintenance or meter
13 equipment change necessitated by the customer-generator shall be
14 paid for by the customer-generator.

15 5. Consistent with the provisions in this section, the net
16 electrical energy measurement shall be calculated in the
17 following manner:

18 (1) For a customer-generator, a retail electric supplier
19 shall measure the net electrical energy produced or consumed
20 during the billing period in accordance with normal metering
21 practices for customers in the same rate class, either by
22 employing a single, bidirectional meter that measures the amount
23 of electrical energy produced and consumed, or by employing
24 multiple meters that separately measure the customer-generator's
25 consumption and production of electricity;

26 (2) If the electricity supplied by the supplier exceeds the
27 electricity generated by the customer-generator during a billing
28 period, the customer-generator shall be billed for the net

1 electricity supplied by the supplier in accordance with normal
2 practices for customers in the same rate class;

3 (3) If the retail electric supplier is an electrical
4 corporation and the electricity generated by the customer-
5 generator exceeds the electricity supplied by the supplier during
6 a billing period, the customer-generator shall be billed for the
7 appropriate customer charges for that billing period in
8 accordance with subsection 3 of this section and shall be
9 credited an amount equal to the electrical corporation's rate
10 applicable to the customer for the excess kilowatt-hours
11 generated during the billing period, with this credit applied to
12 the following billing period. If a customer of an electrical
13 corporation is a customer-generator whose electrical generating
14 system has a capacity of up to ten kilowatts and is billed
15 monthly, credit amounts may be carried over month to month;
16 provided however, at the end of each annual period, any credit
17 owed for excess kilowatt-hours generated shall be credited to the
18 customer on their next bill equal to the avoided fuel cost of the
19 electrical corporation. If a customer of an electrical
20 corporation is a customer-generator whose electrical generating
21 system has a capacity greater than ten kilowatts but not more
22 than three hundred kilowatts and is billed monthly, credit
23 amounts may be carried over month to month; provided however, at
24 the end of each semi-annual period, any credit owed for excess
25 kilowatt-hours generated shall be credited to the customer-
26 generator on their next bill equal to the avoided fuel cost of
27 the electrical corporation. Any customer-generator that is a
28 customer of an electrical corporation that is credited for excess

1 kilowatt-hours generated at the avoided fuel cost rate shall have
2 its credit balance reset to zero. For a customer of an
3 electrical corporation that is a customer-generator and is billed
4 for periods greater than one month, if the electricity generated
5 by the customer-generator exceeds the electricity supplied by the
6 supplier during a billing period, the customer-generator shall be
7 billed for the appropriate customer charges for that billing
8 period in accordance with subsection 3 of this section and shall
9 be credited an amount at least equal to the avoided fuel cost of
10 the excess kilowatt-hours generated during the billing period,
11 with this credit applied to the following billing periods. For a
12 customer of a rural electric cooperative or a municipal utility,
13 if the electricity generated by the customer-generator exceeds
14 the electricity supplied by the supplier during a billing period,
15 the customer-generator shall be billed the appropriate customer
16 charges for that billing period in accordance with subsection 3
17 of this section and shall be credited an amount at least equal to
18 the avoided fuel cost of the excess kilowatt-hours generated
19 during the billing period, with this credit applied to the
20 following billing period;

21 (4) Any credits granted by this subsection shall expire
22 without any compensation at the earlier of either twelve months
23 after their issuance or when the customer-generator disconnects
24 service or terminates the net metering relationship with the
25 supplier;

26 (5) For any rural electric cooperative under chapter 394,
27 or municipal utility, upon agreement of the wholesale generator
28 supplying electric energy to the retail electric supplier, at the

1 option of the retail electric supplier, the credit to the
2 customer-generator may be provided by the wholesale generator.

3 6. (1) Each qualified electric energy generation unit used
4 by a customer-generator shall meet all applicable safety,
5 performance, interconnection, and reliability standards
6 established by any local code authorities, the National
7 Electrical Code, the National Electrical Safety Code, the
8 Institute of Electrical and Electronics Engineers, and
9 Underwriters Laboratories for distributed generation. No
10 supplier shall impose any fee, charge, or other requirement not
11 specifically authorized by this section or the rules promulgated
12 under subsection 9 of this section unless the fee, charge, or
13 other requirement would apply to similarly situated customers who
14 are not customer-generators, except that a retail electric
15 supplier may require that a customer-generator's system contain a
16 switch, circuit breaker, fuse, or other easily accessible device
17 or feature located in immediate proximity to the customer-
18 generator's metering equipment that would allow a utility worker
19 the ability to manually and instantly disconnect the unit from
20 the utility's electric distribution system.

21 (2) For systems of ten kilowatts or less, a customer-
22 generator whose system meets the standards and rules under
23 subdivision (1) of this subsection shall not be required to
24 install additional controls, perform or pay for additional tests
25 or distribution equipment, or purchase additional liability
26 insurance beyond what is required under subdivision (1) of this
27 subsection and subsection 4 of this section.

28 (3) For customer-generator systems of greater than ten

1 kilowatts, the public service commission and the governing body
2 for other utilities shall, by rule or equivalent formal action by
3 each respective governing body:

4 (a) Set forth safety, performance, and reliability
5 standards and requirements; and

6 (b) Establish the qualifications for exemption from a
7 requirement to install additional controls, perform or pay for
8 additional tests or distribution equipment, or purchase
9 additional liability insurance.

10 7. (1) Applications by a customer-generator for
11 interconnection of a qualified electric energy generation unit
12 meeting the requirements of subdivision (3) of subsection 2 of
13 this section to the distribution system shall be accompanied by
14 the plan for the customer-generator's electrical generating
15 system, including but not limited to a wiring diagram and
16 specifications for the generating unit, and shall be reviewed and
17 responded to by the retail electric supplier within thirty days
18 of receipt for systems ten kilowatts or less, and for all other
19 systems within ninety days of receipt by a municipal utility or
20 rural electric cooperative and within sixty days of receipt by an
21 electrical corporation. Prior to the interconnection of the
22 qualified generation unit to the supplier's system, the customer-
23 generator will furnish the retail electric supplier a
24 certification from a qualified professional electrician or
25 engineer that the installation meets the requirements of
26 subdivision (1) of subsection 6 of this section. If the
27 application for interconnection is approved by the retail
28 electric supplier and the customer-generator does not complete

1 the interconnection within one year after receipt of notice of
2 the approval, the approval shall expire and the customer-
3 generator shall be responsible for filing a new application.
4 Electrical corporations shall interconnect qualified energy
5 generation units within forty-five days of being notified that
6 the generation unit is installed, meets the requirements of this
7 section, and has received all applicable permits.

8 (2) Upon the change in ownership of a qualified electric
9 energy generation unit served by a municipally owned utility or
10 rural electric cooperative, the new customer-generator shall be
11 responsible for filing a new application under subdivision (1) of
12 this subsection. Upon the change in ownership of a qualified
13 energy generation unit served by an electrical corporation, the
14 new customer-generator shall be responsible for submitting
15 written acknowledgment to the electrical corporation that the new
16 customer-generator agrees to be bound by the terms of the
17 interconnection agreement of the previous customer-generator, or
18 at the new customer-generator's election, submitting a new
19 application to the electrical corporation for interconnection.

20 8. Each commission-regulated supplier shall submit an
21 annual net metering report to the commission, and all other
22 nonregulated suppliers shall submit the same report to their
23 respective governing body and make said report available to a
24 consumer of the supplier upon request, including the following
25 information for the previous calendar year:

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

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

1 (3) The total estimated net kilowatt-hours received from
2 customer-generators.

3 9. The commission shall, within nine months of January 1,
4 2017, promulgate initial rules necessary for the administration
5 of this section for public utilities, which shall include
6 regulations ensuring that simple contracts will be used for
7 interconnection and net metering. For systems of ten kilowatts
8 or less, the application process shall use an all-in-one document
9 that includes a simple interconnection request, simple
10 procedures, and a brief set of terms and conditions. Any rule or
11 portion of a rule, as that term is defined in section 536.010
12 that is created under the authority delegated in this section
13 shall become effective only if it complies with and is subject to
14 all of the provisions of chapter 536, and, if applicable, section
15 536.028. This section and chapter 536 are nonseverable and if
16 any of the powers vested with the general assembly pursuant to
17 chapter 536, to review, to delay the effective date, or to
18 disapprove and annul a rule are subsequently held
19 unconstitutional, then the grant of rulemaking authority and any
20 rule proposed or adopted after August 28, 2016, shall be invalid
21 and void.

22 10. The governing body of a rural electric cooperative or
23 municipal utility shall, within nine months of January 1, 2017,
24 adopt policies establishing a simple contract to be used for
25 interconnection and net metering. For systems of ten kilowatts
26 or less, the application process shall use an all-in-one document
27 that includes a simple interconnection request, simple
28 procedures, and a brief set of terms and conditions.

1 11. For any cause of action relating to any damages to
2 property or person caused by the generation unit of a customer-
3 generator or the interconnection thereof, the retail electric
4 supplier shall have no liability absent clear and convincing
5 evidence of fault on the part of the supplier.

6 12. The estimated generating capacity of all net metering
7 systems operating under the provisions of this section shall
8 count towards the respective retail electric supplier's
9 accomplishment of any renewable energy portfolio target or
10 mandate adopted by the Missouri general assembly.

11 13. The sale of qualified electric generation units to any
12 customer-generator shall be subject to the provisions of sections
13 407.700 to 407.720. The attorney general shall have the
14 authority to promulgate in accordance with the provisions of
15 chapter 536 rules regarding mandatory disclosures of information
16 by sellers of qualified electric generation units.

17 14. Any interested person who believes that the seller of
18 any electric generation unit is misrepresenting the safety or
19 performance standards of any such systems, or who believes that
20 any electric generation unit poses a danger to any property or
21 person, may report the same to the attorney general, who shall be
22 authorized to investigate such claims and take any necessary and
23 appropriate actions.

24 15. Any costs incurred under this section by a retail
25 electric supplier shall be recoverable in that utility's rate
26 structure.

27 16. No consumer shall connect or operate an electric
28 generation unit in parallel phase and synchronization with any

1 retail electric supplier without written approval by said
2 supplier that all of the requirements under subdivision (1) of
3 subsection 7 of this section have been met. For a consumer who
4 violates this provision, a supplier may immediately and without
5 notice disconnect the electric facilities of said consumer and
6 terminate said consumer's electric service.

7 17. The manufacturer of any electric generation unit used
8 by a customer-generator may be held liable for any damages to
9 property or person caused by a defect in the electric generation
10 unit of a customer-generator.

11 18. The seller, installer, or manufacturer of any electric
12 generation unit who knowingly misrepresents the safety aspects of
13 an electric generation unit may be held liable for any damages to
14 property or person caused by the electric generation unit of a
15 customer-generator.

16 19. Within twenty-four months of the effective date of this
17 section, the commission and department shall complete and submit
18 to the general assembly a joint study of the impact of
19 distributed generation on all customers, including those who do
20 not own or operate on-site generation, in terms of the cost of
21 operating and maintaining the electrical generation,
22 transmission, and distribution system and recovery thereof, as
23 well as associated societal impacts of distributed generation
24 compared to traditional generation sources. At least thirty days
25 prior to the completion and submittal of the final report to the
26 general assembly, a draft of the report shall be provided to
27 interested parties and the public for comment. If requested, all
28 electrical corporations, except those not subject to the

1 jurisdiction of the commission as to rates, financing,
2 accounting, and management under subsection 2 of section 393.110,
3 shall provide cost of service information to the commission and
4 department to assist with the completion of the study. The study
5 shall be made publicly available. Any interested person,
6 company, or association may submit a written response to the
7 study for inclusion in the final report that is submitted to the
8 general assembly.

9 20. This section shall expire on December 31, 2026.

10 393.1030. 1. The commission shall, in consultation with
11 the department, prescribe by rule a portfolio requirement for all
12 electric utilities to generate or purchase electricity generated
13 from renewable energy resources. Such portfolio requirement
14 shall provide that electricity from renewable energy resources
15 shall constitute the following portions of each electric
16 utility's sales:

17 (1) No less than two percent for calendar years 2011
18 through 2013;

19 (2) No less than five percent for calendar years 2014
20 through 2017;

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

23 (4) No less than fifteen percent in each calendar year
24 beginning in 2021.

25
26 At least two percent of each portfolio requirement shall be
27 derived from solar energy. The portfolio requirements shall
28 apply to all power sold to Missouri consumers whether such power

1 is self-generated or purchased from another source in or outside
2 of this state. A utility may comply with the standard in whole
3 or in part by purchasing RECs. Each kilowatt-hour of eligible
4 energy generated in Missouri shall count as 1.25 kilowatt-hours
5 for purposes of compliance.

6 2. The commission, in consultation with the department and
7 within one year of November 4, 2008, shall select a program for
8 tracking and verifying the trading of renewable energy credits.
9 An unused credit may exist for up to three years from the date of
10 its creation. A credit may be used only once to comply with
11 sections 393.1020 to 393.1030 and may not also be used to satisfy
12 any similar nonfederal requirement. An electric utility may not
13 use a credit derived from a green pricing program. Certificates
14 from net-metered sources shall initially be owned by the
15 customer-generator. The commission, except where the department
16 is specified, shall make whatever rules are necessary to enforce
17 the renewable energy standard. Such rules shall include:

18 (1) A maximum average retail rate increase of one percent
19 determined by estimating and comparing the electric utility's
20 cost of compliance with least-cost renewable generation and the
21 cost of continuing to generate or purchase electricity from
22 entirely nonrenewable sources, taking into proper account future
23 environmental regulatory risk including the risk of greenhouse
24 gas regulation. Notwithstanding the foregoing, until June 30,
25 2020, if the maximum average retail rate increase would be less
26 than or equal to one percent if an electric utility's investment
27 in solar-related projects initiated, owned or operated by the
28 electric utility is ignored for purposes of calculating the

1 increase, then additional solar rebates shall be paid and
2 included in rates in an amount up to the amount that would
3 produce a retail rate increase equal to the difference between a
4 one percent retail rate increase and the retail rate increase
5 calculated when ignoring an electric utility's investment in
6 solar-related projects initiated, owned, or operated by the
7 electric utility. Notwithstanding any provision to the contrary
8 in this section, even if the payment of additional solar rebates
9 will produce a maximum average retail rate increase of greater
10 than one percent when an electric utility's investment in
11 solar-related projects initiated, owned or operated by the
12 electric utility are included in the calculation, the additional
13 solar rebate costs shall be included in the prudently incurred
14 costs to be recovered as contemplated by subdivision (4) of this
15 subsection;

16 (2) Penalties of at least twice the average market value of
17 renewable energy credits for the compliance period for failure to
18 meet the targets of subsection 1 of this section. An electric
19 utility will be excused if it proves to the commission that
20 failure was due to events beyond its reasonable control that
21 could not have been reasonably mitigated, or that the maximum
22 average retail rate increase has been reached. Penalties shall
23 not be recovered from customers. Amounts forfeited under this
24 section shall be remitted to the department to purchase renewable
25 energy credits needed for compliance. Any excess forfeited
26 revenues shall be used by the department's energy center solely
27 for renewable energy and energy efficiency projects;

28 (3) Provisions for an annual report to be filed by each

1 electric utility in a format sufficient to document its progress
2 in meeting the targets;

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

7 3. As provided for in this section, except for those
8 electrical corporations that qualify for an exemption under
9 section 393.1050, each electric utility shall make available to
10 its retail customers a solar rebate for new or expanded solar
11 electric systems sited on customers' premises, up to a maximum of
12 twenty-five kilowatts per system, measured in direct current that
13 were confirmed by the electric utility to have become operational
14 in compliance with the provisions of section 386.890 or section
15 386.891, as applicable. The solar rebates shall be two dollars
16 per watt for systems becoming operational on or before June 30,
17 2014; one dollar and fifty cents per watt for systems becoming
18 operational between July 1, 2014, and June 30, 2015; one dollar
19 per watt for systems becoming operational between July 1, 2015,
20 and June 30, 2016; fifty cents per watt for systems becoming
21 operational between July 1, 2016, and June 30, 2017; fifty cents
22 per watt for systems becoming operational between July 1, 2017,
23 and June 30, 2019; twenty-five cents per watt for systems
24 becoming operational between July 1, 2019, and June 30, 2020; and
25 zero cents per watt for systems becoming operational after June
26 30, 2020. An electric utility may, through its tariffs, require
27 applications for rebates to be submitted up to one hundred
28 eighty-two days prior to the June thirtieth operational date.

1 Nothing in this section shall prevent an electrical corporation
2 from offering rebates after July 1, 2020, through an approved
3 tariff. If the electric utility determines the maximum average
4 retail rate increase provided for in subdivision (1) of
5 subsection 2 of this section will be reached in any calendar
6 year, the electric utility shall be entitled to cease paying
7 rebates to the extent necessary to avoid exceeding the maximum
8 average retail rate increase if the electrical corporation files
9 with the commission to suspend its rebate tariff for the
10 remainder of that calendar year at least sixty days prior to the
11 change taking effect. The filing with the commission to suspend
12 the electrical corporation's rebate tariff shall include the
13 calculation reflecting that the maximum average retail rate
14 increase will be reached and supporting documentation reflecting
15 that the maximum average retail rate increase will be reached.
16 The commission shall rule on the suspension filing within sixty
17 days of the date it is filed. If the commission determines that
18 the maximum average retail rate increase will be reached, the
19 commission shall approve the tariff suspension. The electric
20 utility shall continue to process and pay applicable solar
21 rebates until a final commission ruling; however, if the
22 continued payment causes the electric utility to pay rebates that
23 cause it to exceed the maximum average retail rate increase, the
24 expenditures shall be considered prudently incurred costs as
25 contemplated by subdivision (4) of subsection 2 of this section
26 and shall be recoverable as such by the electric utility. As a
27 condition of receiving a rebate, customers shall transfer to the
28 electric utility all right, title, and interest in and to the

1 renewable energy credits associated with the new or expanded
2 solar electric system that qualified the customer for the solar
3 rebate for a period of ten years from the date the electric
4 utility confirmed that the solar electric system was installed
5 and operational.

6 4. The department shall, in consultation with the
7 commission, establish by rule a certification process for
8 electricity generated from renewable resources and used to
9 fulfill the requirements of subsection 1 of this section.
10 Certification criteria for renewable energy generation shall be
11 determined by factors that include fuel type, technology, and the
12 environmental impacts of the generating facility. Renewable
13 energy facilities shall not cause undue adverse air, water, or
14 land use impacts, including impacts associated with the gathering
15 of generation feedstocks. If any amount of fossil fuel is used
16 with renewable energy resources, only the portion of electrical
17 output attributable to renewable energy resources shall be used
18 to fulfill the portfolio requirements.

19 5. In carrying out the provisions of this section, the
20 commission and the department shall include methane generated
21 from the anaerobic digestion of farm animal waste and thermal
22 depolymerization or pyrolysis for converting waste material to
23 energy as renewable energy resources for purposes of this
24 section.

25 6. The commission shall have the authority to promulgate
26 rules for the implementation of this section, but only to the
27 extent such rules are consistent with, and do not delay the
28 implementation of, the provisions of this section. Any rule or

1 portion of a rule, as that term is defined in section 536.010,
2 that is created under the authority delegated in this section
3 shall become effective only if it complies with and is subject to
4 all of the provisions of chapter 536 and, if applicable, section
5 536.028. This section and chapter 536 are nonseverable and if
6 any of the powers vested with the general assembly pursuant to
7 chapter 536 to review, to delay the effective date, or to
8 disapprove and annul a rule are subsequently held
9 unconstitutional, then the grant of rulemaking authority and any
10 rule proposed or adopted after August 28, 2013, shall be invalid
11 and void.

12 393.1075. 1. This section shall be known as the "Missouri
13 Energy Efficiency Investment Act".

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

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

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

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

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

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

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

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

11 (1) Provide timely cost recovery for utilities;

12 (2) Ensure that utility financial incentives are aligned
13 with helping customers use energy more efficiently and in a
14 manner that sustains or enhances utility customers' incentives to
15 use energy more efficiently; and

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

18 4. The commission shall permit electric corporations to
19 implement commission-approved demand-side programs proposed
20 pursuant to this section with a goal of achieving all
21 cost-effective demand-side savings. Recovery for such programs
22 shall not be permitted unless the programs are approved by the
23 commission, result in energy or demand savings and are beneficial
24 to all customers in the customer class in which the programs are
25 proposed, regardless of whether the programs are utilized by all
26 customers. The commission shall consider the total resource cost
27 test a preferred cost-effectiveness test. Programs targeted to
28 low-income customers or general education campaigns do not need

1 to meet a cost-effectiveness test, so long as the commission
2 determines that the program or campaign is in the public
3 interest. Nothing herein shall preclude the approval of
4 demand-side programs that do not meet the test if the costs of
5 the program above the level determined to be cost-effective are
6 funded by the customers participating in the program or through
7 tax or other governmental credits or incentives specifically
8 designed for that purpose.

9 5. To comply with this section the commission may develop
10 cost recovery mechanisms to further encourage investments in
11 demand-side programs including, in combination and without
12 limitation: capitalization of investments in and expenditures
13 for demand-side programs, rate design modifications, accelerated
14 depreciation on demand-side investments, and allowing the utility
15 to retain a portion of the net benefits of a demand-side program
16 for its shareholders. In setting rates the commission shall
17 fairly apportion the costs and benefits of demand-side programs
18 to each customer class except as provided for in subsection 6 of
19 this section. Prior to approving a rate design modification
20 associated with demand-side cost recovery, the commission shall
21 conclude a docket studying the effects thereof and promulgate an
22 appropriate rule.

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

27 7. Provided that the customer has notified the electric
28 corporation that the customer elects not to participate in

1 demand-side measures offered by an electrical corporation, none
2 of the costs of demand-side measures of an electric corporation
3 offered under this section or by any other authority, and no
4 other charges implemented in accordance with this section, shall
5 be assigned to any account of any customer, including its
6 affiliates and subsidiaries, meeting one or more of the following
7 criteria:

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

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

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

19 8. Customers that have notified the electrical corporation
20 that they do not wish to participate in demand-side programs
21 under this section shall not subsequently be eligible to
22 participate in demand-side programs except under guidelines
23 established by the commission in rulemaking.

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

28 10. Customers electing not to participate in an electric

1 corporation's demand-side programs under this section shall still
2 be allowed to participate in interruptible or curtailable rate
3 schedules or tariffs offered by the electric corporation.

4 11. The commission shall provide oversight and may adopt
5 rules and procedures and approve corporation-specific settlements
6 and tariff provisions, independent evaluation of demand-side
7 programs, as necessary, to ensure that electric corporations can
8 achieve the goals of this section. Any rule or portion of a
9 rule, as that term is defined in section 536.010, that is created
10 under the authority delegated in this section shall become
11 effective only if it complies with and is subject to all of the
12 provisions of chapter 536 and, if applicable, section 536.028.
13 This section and chapter 536 are nonseverable and if any of the
14 powers vested with the general assembly pursuant to chapter 536
15 to review, to delay the effective date, or to disapprove and
16 annul a rule are subsequently held unconstitutional, then the
17 grant of rulemaking authority and any rule proposed or adopted
18 after August 28, 2009, shall be invalid and void.

19 12. Each electric corporation shall submit an annual report
20 to the commission describing the demand-side programs implemented
21 by the utility in the previous year. The report shall document
22 program expenditures, including incentive payments, peak demand
23 and energy savings impacts and the techniques used to estimate
24 those impacts, avoided costs and the techniques used to estimate
25 those costs, the estimated cost-effectiveness of the demand-side
26 programs, and the net economic benefits of the demand-side
27 programs.

28 13. Charges attributable to demand-side programs under this

1 section shall be clearly shown as a separate line item on bills
2 to the electrical corporation's customers.

3 14. [(1) Any customer of an electrical corporation who has
4 received a state tax credit under sections 135.350 to 135.362 or
5 under sections 253.545 to 253.561 shall not be eligible for
6 participation in any demand-side program offered by an electrical
7 corporation under this section if such program offers a monetary
8 incentive to the customer, except as provided in subdivision (4)
9 of this subsection.

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

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

20 (4) The provisions of this subsection shall not apply to
21 any low-income customer who would otherwise be eligible to
22 participate in a demand-side program that is offered by an
23 electrical corporation to low-income customers.

24 15.] The commission shall develop rules that provide for
25 disclosure of participants in all demand-side programs offered by
26 electrical corporations under this section when such programs
27 provide monetary incentives to the customer. The disclosure
28 required by this subsection may include, but not be limited to,

1 the following: the name of the participant, or the names of the
2 principles if for a company, the property address, and the amount
3 of the monetary incentive received.

4 393.1200. 1. The department of agriculture is authorized
5 to negotiate and enter into agricultural impact mitigation
6 agreements with the owners of electrical transmission lines
7 located, or to be located, on private property in the state of
8 Missouri. The agricultural impact mitigation agreements may
9 outline construction and deconstruction standards and policies
10 designed to preserve the integrity of agricultural land that is,
11 or may be, impacted by transmission line construction and
12 deconstruction.

13 2. The agricultural impact mitigation agreement may
14 include, but is not limited to, standards and policies regarding
15 restoration of agricultural lands affected by construction,
16 deconstruction including upon abandonment, construction staging,
17 or storage areas; support structures; above-ground facilities;
18 guy wires and anchors; underground cabling depth; topsoil
19 replacement; protection and repair of agricultural drainage
20 tiles; rock removal; repair of compaction and rutting; land
21 leveling; prevention of soil erosion; repair of damaged soil
22 conservation practices; compensation for damages to private
23 property; interference with irrigation systems; access roads;
24 weed control; pumping of water from open excavations; advance
25 notice of access to private property; indemnification of
26 landowners; and deconstruction plans and financial assurance for
27 deconstruction including upon abandonment.

28 3. The department of agriculture may adopt rules that are

1 necessary and appropriate for implementation and administration
2 of agricultural impact mitigation agreements as authorized under
3 this section. Any rule or portion of a rule, as that term is
4 defined in section 536.010 that is created under the authority
5 delegated in this section shall become effective only if it
6 complies with and is subject to all of the provisions of chapter
7 536, and, if applicable, section 536.028. This section and
8 chapter 536 are nonseverable and if any of the powers vested with
9 the general assembly pursuant to chapter 536, to review, to delay
10 the effective date, or to disapprove and annul a rule are
11 subsequently held unconstitutional, then the grant of rulemaking
12 authority and any rule proposed or adopted after August 28, 2016,
13 shall be invalid and void.

14 4. This section shall not apply to municipal electric
15 utilities, electrical corporations that are electric service
16 providers to retail Missouri electric customers, rural electric
17 cooperatives or transmission projects approved by regional
18 transmission organizations, or through an interregional planning
19 process approved by the Federal Energy Regulatory Commission.

20 393.1500. Sections 393.1500 to 393.1575 shall be known as
21 the "21st Century Grid Modernization and Security Act".

22 393.1505. 1. It reflects the policy of the state of
23 Missouri during a time of dynamic change in the electric service
24 industry to modernize the regulatory process for electrical
25 corporations to more closely align the interests of electrical
26 corporations and the customers they serve by:

27 (1) Allowing for the imposition of earnings caps, rate
28 caps, performance standards and other customer protections in

1 connection with service provided by electrical corporations;

2 (2) Providing a meaningful opportunity for electrical
3 corporations to recover on a timely basis the actual, prudently
4 incurred costs of providing reliable electric service;

5 (3) Establishing policies that encourage investment in
6 Missouri electrical infrastructure; and

7 (4) Providing globally competitive electric power rates for
8 energy intensive customers.

9
10 The 21st century grid modernization and security act is intended
11 to create a performance-based regulatory construct for electrical
12 corporations that provides greater certainty to both customers
13 and electrical corporations, and fosters the provision of
14 reliable and affordable electric services for the benefit of
15 customers.

16 2. The operation of sections 393.1500 to 393.1575 is
17 intended to reflect the following processes and features:

18 (1) There shall be an option for electrical corporations to
19 initiate performance-based ratemaking and to undertake certain
20 specific obligations as participating electrical corporations.
21 The initiation of performance-based ratemaking is voluntary and
22 the requirements of this section shall begin with the filing of
23 performance-based rate tariffs consistent with section 393.1525;

24 (2) All participating electrical corporations shall be
25 required to make filings with the commission each year during the
26 time performance-based ratemaking is in effect, providing
27 transparency into the capital investment process initiated by the
28 participating electrical corporations to maintain, modernize, and

1 secure infrastructure;

2 (3) The participating electrical corporation's rates and
3 cost of service used to set the electrical corporation's revenue
4 requirement shall be based upon current financial information
5 contained in the participating electrical corporation's certified
6 FERC Form 1, a document that contains annual financial
7 information concerning the utility's operations, and shall use
8 actual data reported on the FERC Form 1 as the basis to set rates
9 instead of relying upon hypothetical or normalized data that may
10 be subject to dispute; provided however, that nothing in sections
11 393.1500 to 393.1575 is intended to limit the commission's
12 authority to review the books, records, and accounts of the
13 participating electrical corporation for the purpose of verifying
14 the amount and nature of the underlying costs reported in the
15 FERC Form 1, and making such adjustments to FERC Form 1 data as
16 necessary to ensure that only accurately recorded, prudently
17 incurred, and properly allocated Missouri jurisdictional costs of
18 providing electric service are used to set performance-based
19 rates, and further ensuring that such books, records, and
20 accounts are kept in accordance with the commission's
21 requirements;

22 (4) After the performance-based rate tariffs are filed and
23 approved, the participating electrical corporation shall make
24 annual filings under section 393.1530 to update the rates
25 calculated using protocols set forth in the performance-based
26 rate tariffs, which include a reconciliation of costs for the
27 historical rate year adjustments based upon the application of a
28 revenue test, incorporation of performance penalties or

1 incentives for performance metrics set forth in section 393.1520,
2 and annual rate increase limitations under section 393.1540;

3 (5) Performance-based rate tariffs shall include provisions
4 that prevent over and under recovery of a participating
5 electrical corporation's authorized return on equity. The
6 purpose of the revenue test as provided in subdivision (3) of
7 subsection 1 of section 393.1530 is to mitigate the potential for
8 over and under recoveries of a participating electrical
9 corporation's revenue requirement, and return on equity, due to
10 changes in load and electricity sales in any given year;

11 (6) At the time annual rates are updated under section
12 393.1530, a full commission review process is afforded, and rates
13 shall continue to reflect the participating electrical
14 corporation's annual revenue requirement based on the
15 participating electrical corporation's actual costs as generally
16 reflected in the participating electrical corporation's FERC Form
17 1 subject to adjustments under section 393.1525;

18 (7) Rate adjustment mechanisms arising under subsection 1
19 of section 386.266 for electrical corporations with more than two
20 hundred thousand Missouri electric customers shall be suspended
21 under sections 393.1525 and 393.1545 during the period when
22 performance-based rates are in effect;

23 (8) The commission shall continue to have the authority to
24 ensure that customers are being charged rates for electric
25 services that are just and reasonable and based only on prudently
26 incurred costs. In assessing the prudence of a participating
27 electrical corporation's expenditures, the commission shall
28 employ the standards it has historically used in a proceeding

1 under which reviews of general rate increases are considered;

2 (9) Consumer protection and regulatory oversight processes
3 are provided for as part of the performance-based regulatory
4 process to ensure fair and consistent operation; and

5 (10) The intent of subsection 1 of section 393.1520 is to
6 timely reflect within rates any annual change, positive or
7 negative, in the cost of equity evidenced by a change in United
8 States Treasury Bond yields.

9 393.1510. 1. The provisions of section 386.020 defining
10 words, phrases and terms, shall apply to and determine the
11 meaning of all such words, phrases or terms as used in sections
12 393.1500 to 393.1575.

13 2. As used in sections 393.1500 to 393.1575, the following
14 terms shall mean:

15 (1) "Annual update filing", the annual filing made by
16 participating electrical corporations to update the revenue
17 requirement used to set prospective rates, including the
18 reconciliation of costs for the historical rate year, application
19 of the revenue test under section 393.1530, application of any
20 performance penalties or incentives under section 393.1520, and
21 application of any increase limitation amount that has been
22 carried forward under section 393.1540, after the participating
23 electrical corporation has filed its initial performance-based
24 rate tariffs;

25 (2) "Average and excess methodology", the cost of service
26 methodology for allocating and assigning responsibility for
27 production demand costs to each customer rate class as set forth
28 in Table 4-10A on page 50 of the 1992 National Association of

1 Regulatory Utility Commissioners Manual, as it existed on January
2 1, 2015, using the four non-coincident peak average and excess
3 method, as it existed on January 1, 2015;

4 (3) "Cost of service", the total cost of providing retail
5 electric utility service to Missouri electric customers,
6 including but not limited to operating expenses, depreciation,
7 amortizations, taxes, rate base items, and return on rate base,
8 offset by revenues included in net fuel and purchased power,
9 revenues received from customers taking service under section
10 393.1580, and the Missouri jurisdictional portion of revenues
11 from sources other than Missouri jurisdictional retail customers;

12 (4) "Embedded class cost of service study", a study
13 designed to determine the cost of service attributable to each
14 class of electrical corporation customers based upon cost
15 causation principles generally recognized by the public utility
16 industry and state regulatory authorities;

17 (5) "FERC Form 1", the Annual Report of Major Electric
18 Utilities, Licensees and Others that electrical corporations are
19 required to file with the Federal Energy Regulatory Commission
20 under Sections 3, 4(a), 209, and 304 of the Federal Power Act, or
21 successor provisions of law, adjusted to Missouri electric
22 jurisdictional operations, as applicable;

23 (6) "Filing year", the calendar year in which an initial
24 performance-based rate tariff filing is made under section
25 393.1525, or the year in which an annual update filing is made
26 under section 393.1530;

27 (7) "Force majeure event", an event or circumstance that
28 occurs as a result of a weather event, an act of God, war or

1 terrorism, a change in federal or state statutes or regulations
2 addressing requirements applicable to renewable energy resources
3 as defined in section 393.1025, or other uncontrollable event as
4 determined by the commission that causes a reduction in revenues,
5 an increase in the cost of providing electrical service, or some
6 combination thereof, and the event has an associated fiscal
7 impact on a participating electrical corporation's operations
8 equal to one percent or greater of the total revenue requirement
9 established under sections 393.1500 to 393.1575. Any force
10 majeure event shall be subject to commission review and approval,
11 and shall not preclude the commission from reviewing the prudence
12 of any revenue reductions or costs incurred during any proceeding
13 to set rates initiated under sections 393.1525 or 393.1530;

14 (8) "General advertising", any of the following:

15 (a) Advertisements which convey ways to safely use
16 electricity and avoid accidents;

17 (b) Advertisements which provide factual information about
18 how the electrical corporation generates or delivers, or plans to
19 generate or deliver, safe and adequate service;

20 (c) Advertisements that contain information regarding
21 federal and state laws and how they affect the electric business;

22 (d) Advertisements that convey innovations in the
23 electrical corporation's operations;

24 (e) Advertisements that help identify the electrical
25 corporation's presence to its customers; and

26 (f) Advertisements that help electric customers manage or
27 understand the service and programs in place to help them manage
28 their accounts and service the electrical corporation provides;

1 (9) "Historical rate year", the calendar year immediately
2 prior to the filing year in which changes in rates are proposed
3 under sections 393.1525 to 393.1530;

4 (10) "Initial rate year", the first calendar year in which
5 performance-based rate tariffs are in effect;

6 (11) "Institutional advertising", advertising done solely
7 to improve the participating electrical corporation's image with
8 no benefit to the customer. "Institutional advertising" shall
9 include political advertising;

10 (12) "Large power service rate schedule", the rate schedule
11 of a participating electrical corporation that sets forth rates
12 applicable to the largest industrial consumers and other
13 customers in that customer class;

14 (13) "Net fuel and purchased power", all fuel and purchased
15 power acquired by the participating electrical corporation used
16 to serve Missouri retail electric load reduced by total wholesale
17 or off-system power sales for the same period, and all other
18 items eligible for inclusion in a rate adjustment mechanism under
19 subsection 1 of section 386.266;

20 (14) "Operating expenses", FERC Account 401 "Operation
21 Expenses", FERC Account 402 "Maintenance Expenses", and FERC
22 Account 408.1 "Taxes Other Than Income Taxes, Utility Operating
23 Income", excluding gross receipts taxes, for the purposes of
24 applying the one percent per annum gross-up provided for under
25 sections 393.1525 and 393.1530;

26 (15) "Participating electrical corporation", an electrical
27 corporation that voluntarily files performance-based rate tariffs
28 under section 393.1525. A participating electrical corporation

1 shall recover its cost of providing service through the
2 ratemaking process set forth in sections 393.1500 to 393.1575,
3 until such time as the effective operation of sections 393.1500
4 to 393.1575 terminates by the electrical corporation's voluntary
5 withdrawal or operation of law. At such time as termination is
6 effective an electrical corporation is no longer a participating
7 electrical corporation for the purposes of sections 393.1500 to
8 393.1575;

9 (16) "Rate base", the investment in net plant, inventories,
10 accumulated deferred income taxes, and other items consistent
11 with established ratemaking practices recognized in proceedings
12 in which a general change in rates was approved by the commission
13 prior to the effective date of this section. The return
14 reflected in cost of service is calculated on this investment;

15 (17) "Rate year", the calendar year in which rates will be
16 in effect under sections 393.1500 to 393.1575;

17 (18) "Retail electric services", the services, and rates
18 and terms for service, provided by an electrical corporation and
19 subject to the jurisdiction of the commission;

20 (19) "Revenue requirement", the total amount recoverable
21 through retail electric rates necessary to allow a participating
22 electrical corporation the opportunity to recover its full cost
23 of service, and shall also include, without limitation, any
24 amount associated with a reconciliation balance under section
25 393.1530, or an increase limitation amount that has been carried
26 forward under section 393.1540;

27 (20) "Tariff", schedules of rates and terms and conditions
28 of service for an electrical corporation that are open for public

1 inspection under subdivision (11) of section 393.140.

2 393.1515. 1. No later than February twenty-eighth of each
3 year after it elects to become a participating electrical
4 corporation, each participating electrical corporation shall
5 submit to the commission a five year capital investment plan
6 setting forth the general categories of capital expenditures the
7 electrical corporation will pursue in furtherance of modernizing
8 and securing its infrastructure and achieving the performance
9 metrics set forth in section 393.1520. The plan shall also
10 include a specific capital investment plan for the first year of
11 the five year plan consistent with the level of specificity the
12 participating electrical corporation has historically used for
13 annual capital budgeting purposes. Project specific information
14 is not required to be included for the five year period covered
15 by the plan. No later than February twenty-eighth of each
16 subsequent year, the participating electrical corporation shall
17 submit to the commission an updated capital investment plan for
18 the subsequent five years, a specific capital investment plan for
19 the subsequent calendar year, and report the capital investments
20 for the prior calendar year. Within thirty days of the filing of
21 any capital investment plan or annual update to an existing plan,
22 the participating electrical corporation shall host a public
23 stakeholder meeting to answer questions and receive feedback
24 about the plan. Such participating electrical corporation shall
25 provide public notice of the meeting to its customers on its
26 website, and the meeting shall be located within the electrical
27 corporation's service territory. After feedback is received, the
28 participating electrical corporation shall file a notice with the

1 commission of any modifications to the capital investment plan it
2 has accepted. The plan, implementation of the plan, or schedule
3 changes from year to year shall not constitute evidence of
4 imprudence of the capital investment plan or the investments made
5 under such plan. The fact that a participating electrical
6 corporation invests more or less than the amounts specified in
7 its initial or updated plans shall not constitute evidence of
8 imprudence. The submission made under this section shall be made
9 publicly available; however, portions of the submission that
10 contain confidential and proprietary information may be protected
11 from public disclosure in a manner consistent with the rules or
12 orders of the commission as applicable. Nothing in this section
13 shall require a participating electrical corporation to publicly
14 disclose confidential, proprietary, or financially sensitive
15 information, any market sensitive information, or information
16 that would otherwise violate rules promulgated by the Federal
17 Energy Regulatory Commission designed to protect the integrity of
18 wholesale power markets. The submission of a capital investment
19 plan under this section shall not affect in any way the
20 commission's authority with respect to the grant or denial of a
21 certificate of convenience and necessity under section 393.170.

22 2. (1) In order for an electrical corporation that has
23 more than one million Missouri electric customers to be eligible
24 to become a participating electrical corporation under sections
25 393.1500 to 393.1575, such corporation shall develop a
26 qualification process for contractors seeking to provide
27 construction and construction-related services for projects on
28 the electrical corporation's distribution system. Under the

1 qualification process, the electrical corporation may specify
2 eligibility requirements typically accepted by the industry,
3 including but not limited to, experience, performance criteria,
4 safety policies, and insurance requirements to be met by any
5 contractor seeking to participate in competitive bidding to
6 provide construction and construction-related services for
7 distribution system projects. Contractors that meet the
8 eligibility requirements set by such electrical corporation shall
9 be eligible to participate in the competitive bidding process for
10 providing construction and construction-related services for
11 distribution system projects, and the contractor making the
12 lowest and best bid shall be awarded such contract.

13 (2) Prior to electing to become a participating electrical
14 corporation, an electrical corporation that is required to comply
15 with this subsection in order to elect to become a participating
16 electrical corporation, as provided for in subdivision (1) of
17 this subsection, shall file a verified statement with the
18 commission confirming that it has in place a qualification
19 process for the competitive bidding of construction and
20 construction-related services for distribution system projects,
21 and that such process conforms with the requirements of this
22 subsection. The commission shall have the authority to verify
23 the statement to ensure compliance with this subsection. The
24 electrical corporation shall submit with each filing to establish
25 or change its performance-based rates under sections 393.1525 or
26 393.1530, a verified statement confirming that it is using a
27 competitive bidding process for no less than ten percent of the
28 combined external installation expenditures made by the

1 electrical corporation's operating units in Missouri for
2 construction and construction-related services for distribution
3 system projects, and that such process conforms with the
4 requirements set forth in this subsection. The commission shall
5 have the authority to verify the statement to ensure compliance
6 with this subsection.

7 (3) Nothing in this subsection shall be construed as
8 requiring any electrical corporation, subject to the requirements
9 of this subsection, to use a qualified contractor or competitive
10 bidding process in the case of an emergency project, or to
11 terminate any existing contract with a contractor prior to its
12 expiration; provided however, that the use of any pre-existing
13 contract for construction or construction-related services for
14 distribution system projects shall not qualify as fulfilling the
15 ten percent requirement set forth in this subsection.

16 (4) By December 31, 2018, and annually thereafter, the
17 commission shall submit a report to the general assembly on the
18 effects of this subsection, including electrical corporation
19 compliance, potential legislative action regarding this
20 subsection, the costs of constructing distribution system
21 projects prior to the implementation of this subsection compared
22 to after the implementation of this subsection, and any
23 other information regarding the processes established under this
24 subsection that the commission deems necessary.

25 393.1520. 1. (1) In proceedings to set rates under
26 sections 393.1500 to 393.1575, the return on equity for a
27 participating electrical corporation shall be 9.45 percent,
28 adjusted to reflect an increase or decrease equal to the

1 difference between the average of thirty-year United States
2 Treasury Bond yields for the applicable historical rate year and
3 the average of thirty-year United States Treasury Bond yields for
4 the three months ending March 31, 2016, as published by the Board
5 of Governors of the Federal Reserve System in its weekly H.15
6 Statistical Release or any successor publication, with that
7 difference to be adjusted by the following correlation factors:

8 (a) For that part of the difference up to one percentage
9 point, the correlation factor shall be one hundred percent;

10 (b) For that part of the difference, if any, above one
11 percentage point, the correlation factor shall be seventy
12 percent.

13 (2) At such time as the board of governors of the Federal
14 Reserve System ceases to include the average yields of thirty-
15 year United States Treasury Bonds in its weekly H.15 Statistical
16 Release or successor publication, the average yields of the
17 United States Treasury Bonds then having the longest duration
18 published by the Board of Governors in its weekly H.15
19 Statistical Release or successor publication shall instead be
20 used for purposes of this subsection.

21 2. In proceedings to update rates annually consistent with
22 section 393.1530, for purposes of the reconciliation of cost of
23 service, the return on equity for a participating electrical
24 corporation, calculated under subsection 1 of this section, shall
25 be increased or decreased to reflect its performance based on the
26 following metrics:

27 (1) The System Average Interruption Duration Index,
28 including the Institute for Electrical and Electronics Engineers

1 major storm exclusion provision as defined by the Institute for
2 Electrical and Electronics Engineers' publication "Guide for
3 Electric Power Distribution System Indices" or its successor
4 publication, but excluding major storms as defined in that guide;

5 (2) The System Average Interruption Frequency Index,
6 including the Institute for Electrical and Electronics Engineers
7 major storm exclusion provision as defined by the Institute for
8 Electrical and Electronics Engineers' publication "Guide for
9 Electrical Power Distribution System Indices" or its successor
10 publication, but excluding major storms as defined in that guide;

11 (3) The percentage of customer calls answered by the
12 participating electrical corporation's customer call centers
13 within thirty seconds;

14 (4) The average speed of answer by the participating
15 electrical corporation's call centers;

16
17 The commission shall have the authority to replace one of the
18 metrics set forth in this subsection for application to a
19 specific participating electrical corporation by issuing an order
20 under section 393.1525 or 393.1530. The new metric shall be
21 applied prospectively and may result in a change in the return on
22 equity equal to no more than five one-hundredths of one
23 percentage point.

24 3. Each participating electrical corporation shall track
25 the performance metrics specified in subsection 2 of this section
26 for each year that performance-based rate tariffs are in effect.
27 In each year subsequent to the initial rate year, the
28 participating electrical corporation shall include in its annual

1 update filing a report that provides a description of how the
2 participating electrical corporation performed under each metric
3 in the previous year, and identify any extraordinary events that
4 adversely impacted its performance. For each performance metric,
5 as reported in the annual update filing of a participating
6 electrical corporation, where the annual average performance
7 actually achieved by the participating electrical corporation is
8 superior to the rolling average for the five-year period ending
9 the year preceding the historical rate year by fifteen percent or
10 more, then the allowable return on equity shall be increased by
11 five one-hundredths of one percentage point. For each
12 performance metric, as reported in an annual update filing of a
13 participating electrical corporation, where the annual average
14 performance actually achieved is inferior to the rolling average
15 for the five-year period ending the year preceding the historical
16 rate year by fifteen percent or more, then the allowable return
17 on equity shall be reduced by five one-hundredths of one
18 percentage point. The allowable return on equity shall not be
19 otherwise adjusted on account of these or any other performance
20 metrics. These performance metrics shall be calculated and
21 reported by the participating electrical corporation in a manner
22 consistent with the methodology that participating electrical
23 corporation used for the five-year period ending December 31,
24 2015. At the conclusion of the performance-based rate proceeding
25 initiated under section 393.1530, the commission shall enter an
26 order approving financial penalties or financial incentives in
27 accordance with this subsection. The commission-approved
28 financial penalties or incentives shall be applied as adjustments

1 to the return on equity applicable to the historical rate year to
2 be reflected in the reconciliation of costs provided for under
3 section 393.1530. Nothing in this section shall authorize the
4 commission to increase, reduce, or otherwise adjust the financial
5 penalties or incentives established under this subsection. All
6 financial penalties and incentives shall operate symmetrically
7 and shall be expressed as an addition or subtraction of five one-
8 hundredths of one percentage point to be applied to the return on
9 equity for each of the respective categories identified
10 subsection 2 of this section. In no event shall the aggregate of
11 the financial incentives or penalties affect a participating
12 electrical corporation's authorized return by more than two-
13 tenths of one percentage point in any year, and any penalty or
14 incentive shall not be used or applied to periods beyond the
15 historical rate year. No incentive or penalty, or portion
16 thereof, may be carried over for application in future periods.

17 393.1525. 1. Notwithstanding any provision of chapter 386
18 or chapter 393 to the contrary, an electrical corporation may
19 become a participating electrical corporation seeking to recover
20 its cost of service through performance-based rate tariffs by
21 filing such tariffs with the commission. Such tariffs shall be
22 approved by the commission, subject to the rate limitations set
23 forth under section 393.1540. The commission order approving the
24 performance-based rate tariff and initial rates shall specify the
25 cost and revenue components that form the basis for establishing
26 just and reasonable rates charged to customers with sufficient
27 specificity to operate in a standardized, formulaic manner and be
28 updated annually with transparent information that reflects the

1 electrical corporation's actual, prudently incurred cost of
2 service to be recovered during the applicable rate year. The
3 commission shall have authority to approve adjustments to such
4 performance-based rate tariffs only upon finding, after a hearing
5 supported by competent and substantial evidence, that such
6 performance-based rate tariffs do not meet the requirements of
7 sections 393.1500 to 393.1575, or that such performance-based
8 rate tariffs seek to recover imprudently incurred costs. A
9 participating electrical corporation that serves more than two
10 hundred thousand Missouri electric customers at the time it files
11 tariffs under section 393.1525, and recovers fuel and purchased
12 power costs through the use of a rate adjustment mechanism
13 established under subsection 1 of section 386.266, shall be
14 required to recover costs previously recoverable under that rate
15 adjustment mechanism through its performance-based rate tariffs
16 consistent with the requirements of section 393.1545, and the
17 rate adjustment mechanism shall be suspended through December 31
18 of the last year to which sections 393.1500 to 393.1555 apply as
19 provided for in section 393.1575. A participating electrical
20 corporation that serves fewer than two hundred thousand Missouri
21 electric customers and recovers fuel and purchased power costs
22 through the use of a rate adjustment mechanism established under
23 subsection 1 of section 386.266 shall have the option of
24 continuing to utilize that rate adjustment mechanism in addition
25 to the performance-based rate mechanism provided for in this
26 section; and, starting with its initial performance-based rate
27 tariff filing under this section, it shall be relieved of its
28 obligation imposed under subsection 4 of section 386.266 to make

1 periodic general rate filings in order to retain its rate
2 adjustment mechanism until the expiration of five years following
3 the termination of its participating electrical corporation
4 status. A participating electrical corporation may elect to
5 suspend the operation of any other rate adjustment mechanisms and
6 include associated recoveries within its performance-based rates,
7 but shall not be required to suspend any rate adjustment
8 mechanisms other than those operating under subsection 1 of
9 section 386.266 in accordance with this section. If a
10 participating electrical corporation maintains an existing rate
11 adjustment mechanism and does not elect to suspend such a
12 mechanism while performance-based rates are in effect, then the
13 commission shall ensure that all costs and revenues associated
14 with such rate adjustment mechanism remain unbundled and are
15 excluded from performance-based rate calculations.

16 2. If the participating electrical corporation, prior to
17 the effective date of this section, filed tariffs with the
18 commission under section 393.150 requesting a general increase in
19 rates, and commission approval of the tariffs is still pending
20 when the participating electrical corporation makes its initial
21 performance-based rate tariff filing, the tariffs filed under
22 section 393.150 shall be deemed withdrawn by the participating
23 electrical corporation upon its initial filing under this
24 section, and the commission shall dismiss with prejudice any
25 docket that had been initiated to investigate such proposed
26 tariffs and rates, and such tariffs and the record related to
27 such tariffs shall not be the subject of any further hearing,
28 investigation, or proceeding of any kind. Performance-based

1 rates established under this section shall be applicable to all
2 customers, except customers charged rates established under
3 section 393.1580. When a participating electrical corporation
4 files its performance-based rate tariffs, the commission shall
5 conduct an investigation of the proposed tariffs as provided for
6 in this section. Upon approval, the performance-based rate
7 tariffs shall remain in effect at the discretion of the
8 participating electrical corporation subject to the requirements
9 of section 393.1555. The performance-based rate tariffs approved
10 by the commission shall adhere to the following requirements:

11 (1) Establish the cost of service for the rate year based
12 on the participating electrical corporation's actual costs of
13 providing electric utility services, as generally reflected in
14 its FERC Form 1 for the historical rate year, except as set forth
15 in subdivisions (2) to (6) of this subsection;

16 (2) Reflect the participating electrical corporation's
17 actual year-end capital structure for the historical rate year.
18 A participating electrical corporation shall not be obligated to
19 utilize a more highly leveraged capital structure, or otherwise
20 be penalized, for its ability to recover costs through
21 performance-based rates. So long as the electrical corporation
22 maintains a capital structure that includes equity capital of no
23 greater than fifty-three percent and no less than forty-seven
24 percent of total capitalization, the participating electrical
25 corporation's capital structure shall be presumed prudent and
26 used to set rates for all purposes set forth in this section and
27 in section 393.1530; provided that if the participating
28 electrical corporation's senior secured debt rating issued by a

1 national credit ratings agency declines to a rating weaker than
2 the participating electrical corporation's senior secured debt
3 rating as of the effective date of this section, or if a national
4 credit ratings agency issues a corporate credit rating for the
5 participating electrical corporation's ultimate parent company
6 that is below investment grade, the presumption created by this
7 section shall not apply. For purposes of this subdivision,
8 "national credit ratings agency" shall mean Moody's Investors
9 Service and Standard and Poor's Ratings Services, or successor
10 agencies, and "below investment grade" shall mean Baa3 for
11 Moody's Investors Service and BBB- for Standard and Poor's
12 Ratings Services, or equivalent ratings in the case of successor
13 agencies. If the capital structure falls outside of a range of
14 fifty-three percent to forty-seven percent equity, the commission
15 may investigate the prudence of the capital structure and adjust
16 it, as applicable, for the purposes of establishing cost of
17 service in a manner consistent with the standard it has
18 historically used to assess utility management prudence. The
19 fact that a participating electrical corporation's equity capital
20 is higher than fifty-three percent or lower than forty-seven
21 percent of total capitalization shall not constitute evidence of
22 imprudence;

23 (3) Include a cost of equity consistent with the
24 requirements of subsection 1 of section 393.1520;

25 (4) Include the following ratemaking adjustments for the
26 purpose of setting prospective rates:

27 (a) Recovery of regulatory assets and return of regulatory
28 liabilities over the periods authorized by the commission;

1 (b) Recovery of amortizations authorized under sections
2 393.1500 to 393.1575;

3 (c) Establishment of rates based on actual billing
4 determinants, as generally reflected in the electrical
5 corporation's FERC Form 1 for the historical rate year; provided
6 however, that a participating electrical corporation shall be
7 permitted to adjust billing units used to set rates for the rate
8 year based on weather-normalized billing determinants using a
9 weather normalization methodology consistent with the approach
10 previously relied upon by the commission to set rates for the
11 participating electrical corporation in its most recent general
12 rate proceeding prior to the filing of performance-based rate
13 tariffs. If a participating electrical corporation uses weather-
14 normalized billing units, it shall also adjust net fuel and
15 purchased power to reflect net purchase and sales volumes, in
16 megawatt-hours, equal to the amount of the retail volume weather
17 normalization amount; this volume adjustment to net purchases and
18 sales shall be priced at the average price for the unadjusted net
19 purchases and sales as calculated based on data reported in the
20 electrical corporation's FERC Form 1 for the historical rate
21 year;

22 (d) Recovery of nuclear refueling costs, including all
23 outage related costs, provided a participating electrical
24 corporation may elect to recover nuclear refueling costs over a
25 period equal to the anticipated interval between refueling
26 outages; or, if the participating electrical corporation utilizes
27 the deferral method to account for operations and maintenance
28 expenses incurred in support of nuclear refueling outages, the

1 participating electrical corporation may recover such costs by
2 amortizing them evenly on a monthly basis over the unit's
3 operating cycle until the next scheduled outage;

4 (e) Interest accrued on customer deposits using the
5 commission approved interest rate;

6 (f) An estimate of the revenue to be received from
7 customers served under rates established under section 393.1580
8 to be treated as a revenue credit offsetting the revenue
9 requirement established by the operation of this section. In
10 order to minimize the impact on future reconciliation balances
11 due to a change, anticipated or realized, in revenue collected
12 from customers receiving service under section 393.1580, the
13 revenue contribution estimate used to set rates for the rate year
14 may be adjusted for good cause by the participating electrical
15 corporation during any open proceeding under this section or
16 section 393.1530 upon notice to the commission and all parties no
17 less than thirty days prior to any scheduled evidentiary hearing;

18 (g) Recovery of any foregone margin experienced by the
19 participating electrical corporation during the period between
20 the effective date of rates set under section 393.1580 and the
21 effective date of rates established under this section. For the
22 purposes of this section, the foregone margin shall be measured
23 as the difference between:

24 a. The revenues that would have been received from those
25 customers between the effective date of rates set under section
26 393.1580 and the effective date of rates established under this
27 section had the rates previously established by commission order
28 in the electrical corporation's most recent general rate

1 proceeding prior to implementation of performance-based rates for
2 any customer or customers qualifying for service under section
3 393.1580 remained in effect, multiplied by the normalized billing
4 units for the same customer or customers used in setting rates in
5 that general rate proceeding; and

6 b. The revenue actually received from those customers,
7 during the period between the effective date of rates set under
8 section 393.1580 and the effective date of the rates established
9 under this section adjusted to reflect any differences in net
10 energy costs allocated to other customers directly resulting from
11 the reduction in load. Recovery of the foregone margin shall
12 begin at the time initial performance-based rates under this
13 section become effective, and an estimate shall be used to set
14 initial rates in order to provide for recovery during the first
15 period rates are in effect. Any remainder or over-collection
16 caused by a variance between the estimated and actual foregone
17 margin shall be recovered or credited as part of the first
18 reconciliation under section 393.1530;

19 (h) Any adjustments necessary to effectuate an allocation
20 of common costs reported on FERC Form 1 that are shared among
21 operating affiliates, subsidiaries, or operating divisions of a
22 participating electrical corporation. The commission shall
23 permit the participating electrical corporation to use the most
24 recent of either a commission-approved cost allocation manual, or
25 the most recent allocation methodology used to set rates as a
26 part of a general proceeding to change electric rates under
27 section 393.150 prior to the adoption of sections 393.1500 to
28 393.1575;

1 (i) For a participating electrical corporation whose FERC
2 Form 1 does not reflect cost of service information that is
3 specific solely to Missouri electric jurisdictional operations,
4 adjustments to such FERC Form 1 information shall be made
5 consistent with the approach adopted by the commission in the
6 electrical corporation's most recently completed general rate
7 proceeding under section 393.150, as necessary to conform the
8 FERC Form 1 information to Missouri electric jurisdictional
9 operations. Adjustments made under this paragraph shall be
10 consistent with the intended operation of performance-based rates
11 as set forth in subdivision (3) of subsection 2 of section
12 393.1505;

13 (j) Adjustments necessary to recognize established
14 regulatory accounting treatment adopted in the electrical
15 corporation's most recently concluded general rate proceeding
16 prior to the adoption of sections 393.1500 to 393.1575 for
17 participating electrical corporations by the commission for
18 pension expense, other post-employment benefits, and Financial
19 Accounting Standards Board Interpretation Number 48. Any
20 established cost tracker, or similar accounting treatment,
21 established by the commission for a participating electrical
22 corporation prior to the adoption of sections 393.1500 to
23 393.1575 for the specific accounting items identified in this
24 paragraph shall continue to be recognized during the operation of
25 sections 393.1500 to 393.1575;

26 (k) An additive adjustment of one percent per annum applied
27 to operating expenses;

28 (l) Adjustments necessary to reflect the announced closure

1 of a generating plant scheduled to occur during either the filing
2 year or the rate year;

3 (m) Adjustments necessary to reflect return on rate base,
4 depreciation and amortization expense and current and deferred
5 income taxes calculated based on year end FERC Form 1 plant
6 balances for the historical rate year; and

7 (n) Adjustments necessary to correct errors or accounting
8 mistakes in FERC Form 1 or the proposed revenue requirement;

9 (5) Exclude from recovery the following:

10 (a) All lobbying, charitable donations, and institutional
11 advertising expenses; provided however, that dues, including dues
12 or contributions to industry or academic associations and
13 institutions that provide educational, research, and
14 informational services concerning energy policy, technology, and
15 best practices shall be recoverable to the extent reasonable in
16 amount and prudently incurred. For the purposes of this
17 paragraph, institutional advertising shall not include general
18 advertising, and the expenses associated with general
19 advertising, and other non-institutional advertising, are
20 recoverable so long as they are prudently incurred;

21 (b) Incentive compensation expenses only to the extent they
22 are based on earnings metrics; however, metrics that are designed
23 to provide an incentive for management cost control and budget
24 management are recoverable;

25 (c) Pass-through taxes, such as gross receipts or similar
26 taxes, from both revenues and expenses; and

27 (d) Any costs found to be imprudent by the commission in a
28 proceeding to set rates under sections 393.1500 to 393.1575; and

1 (6) Provide for the reconciliations described in section
2 393.1530;

3 (7) Include protocols for prospective termination of the
4 application of performance-based ratemaking consistent with
5 sections 393.1560 and 393.1575.

6 3. The electrical corporation shall file, together with its
7 tariff, final data based on its FERC Form 1 for the historical
8 rate year which is the basis of its initial performance-based
9 rate tariff filing that shall establish the revenue requirement
10 used to set initial performance-based tariff rates. Nothing in
11 this section is intended to allow costs that are not otherwise
12 recoverable to be recoverable by virtue of inclusion in FERC Form
13 1. Nothing in this section is intended to prevent the commission
14 from reviewing a participating electrical corporation's books,
15 records, and accounts and making such adjustments to FERC Form 1
16 data as necessary to ensure that only accurately recorded,
17 prudently incurred, and properly allocated Missouri
18 jurisdictional costs of providing retail electric service are
19 recovered through its performance-based rate tariffs.

20 4. After the participating electrical corporation files its
21 proposed initial performance-based rate tariffs under this
22 section, the commission shall initiate a docket to review the
23 filing. The participating electrical corporation shall submit
24 prefiled direct testimony supporting its proposed performance-
25 based rate tariffs. The participating electrical corporation
26 shall explain in its direct testimony why any rate increase or
27 decrease is reasonable and appropriate, and further provide an
28 explanation of how FERC Form 1 values are reflected in the

1 performance-based rate tariffs and proposed revenue requirement.
2 The participating electrical corporation shall submit direct
3 testimony with its performance-based rate tariff, and make
4 available to the commission, its staff, and intervenors,
5 schedules and workpapers in native format to assist parties with
6 reviewing the proposed revenue requirement and operation of the
7 tariffs. The filing of a performance-based rate tariff shall not
8 limit the commission's authority to inspect the books and records
9 of the participating electrical corporation. The commission
10 shall enter an order approving, or approving as modified, the
11 initial performance-based tariffs, including the initial rates,
12 within two hundred and forty-four days after the date on which
13 the tariff was filed. The commission shall approve the
14 performance-based rate tariffs upon its review of the filing and
15 finding that such performance-based rate tariffs meet the
16 requirements of sections 393.1500 to 393.1575. The commission
17 may approve adjustments to such performance-based rate tariffs
18 only upon finding, after hearing and supported by competent and
19 substantial evidence, that such performance-based rate tariffs do
20 not meet the requirements of sections 393.1500 to 393.1575, or
21 that such performance-based rate tariffs seek to recover costs
22 that have been imprudently incurred. In assessing prudence, the
23 commission shall employ the standards it has historically used in
24 proceedings under which a review of a general rate increase is
25 considered. The commission shall establish a procedural schedule
26 that requires all parties objecting to any portion of the
27 participating electrical corporation's filing to file prefiled
28 rebuttal testimony and other documentary evidence. The

1 commission shall also allow parties other than the participating
2 electrical corporation to respond to each other through prefiled
3 cross-rebuttal testimony, and the participating electrical
4 corporation shall be permitted to respond to all other parties'
5 prefiled testimony through the filing of prefiled surrebuttal
6 testimony. Notwithstanding the two hundred and forty-four day
7 limitation, if a participating electrical corporation makes its
8 initial performance-based rate tariff filing after April first
9 but before May first, the commission shall expedite consideration
10 of the application to ensure that initial rates are in effect no
11 later than January first of the year following the filing year,
12 and adjust the procedural schedule as necessary. Recovery of the
13 participating electrical corporation's prudently incurred
14 expenses related to the commission proceedings initiated under
15 this section and section 393.1530 shall be permitted, and all
16 prudently incurred regulatory, expert, legal, and other expenses
17 associated with these commission proceedings shall be recoverable
18 absent a commission finding of imprudence, after hearing, on the
19 basis of competent and substantial evidence. The commission may
20 conduct any hearings in a manner consistent with established
21 commission practice and procedure. Aside from corrections to
22 mistakes in earlier-filed testimony, after the participating
23 electrical corporation files surrebuttal testimony, no further
24 prefiled testimony shall be received. Once approved,
25 performance-based rate tariffs shall be updated annually
26 consistent with the requirements set forth in section 393.1530,
27 and a participating electrical corporation shall not adjust rates
28 without approval by the commission.

1 5. To the extent that the participating electrical
2 corporation's rates set in its most recently concluded general
3 rate proceeding under section 393.150 are not based on the
4 average and excess methodology, the performance-based rates
5 resulting from the participating electrical corporation's revenue
6 requirement shall be calculated in a manner that limits increases
7 to customers receiving service under the participating electrical
8 corporation's large power service rate schedule to no more than
9 the class cost of service indicated by allocating production
10 costs consistent with the average and excess allocation
11 methodology. Further, where any participating electrical
12 corporation's existing large power service rate design is based
13 on hours of use energy rate components, and where the last energy
14 rate block for the summer and winter rate periods is higher than
15 the parallel generation rate for the electrical corporation as
16 adjusted for losses, the last energy rate block for both summer
17 and winter rate periods shall be set at the parallel generation
18 rate for the electrical corporation, adjusted for losses specific
19 to the service provided. In addition, where any participating
20 electrical corporation's existing large power service rate design
21 is based on other than hours of use rate components, the energy
22 rate for both summer and winter rate periods shall be reduced by
23 ten percent of the difference between such rates and the parallel
24 generation rate for the electrical corporation, adjusted for
25 losses specific to the service provided. After calculating the
26 impact of rate design changes as applied to large power service
27 customers, any difference in large power service customers'
28 revenue determination due to the application of the provisions of

1 this subsection shall be allocated equally to all customer
2 classes other than large power service and allocated equally
3 among all rate elements within each class beginning with rates
4 established through the electrical corporation's second
5 performance-based rate filing or, thereafter, through rates
6 established under section 393.150. For the period between the
7 effective date of this section until rates become effective
8 through the electrical corporation's second performance-based
9 rate filing, any difference in large power service customers'
10 revenue determination due to the application of the provisions of
11 this subsection shall be deferred, with interest applied at the
12 participating electrical corporation's short-term borrowing rate,
13 which deferred amounts shall be recoverable through performance-
14 based rates or rates set under section 393.150. For the purposes
15 of this subsection, the participating electrical corporation
16 shall utilize the billing determinants and other cost of service
17 information from the participating electrical corporation's most
18 recently concluded general rate proceeding to calculate the
19 change in class cost of service responsibility applicable to all
20 other classes resulting from the implementation of the average
21 and excess methodology. Incorporation of the average and excess
22 methodology, rate design changes prescribed by this subsection,
23 and the operation of the rate established under section 393.1580,
24 shall be implemented in the manner prescribed in this subsection
25 through the first two performance-based rate filings of the
26 participating electrical corporation. Thereafter, the resulting
27 rate design shall then be utilized as the base on which the
28 revenue requirement increase or decrease shall be allocated

1 equally to all customer classes and allocated equally among all
2 rate elements within each class. Rates applicable to customer
3 classes under section 393.1580 shall be set in accordance with
4 that section.

5 6. (1) Subject to the limitations provided for in
6 subdivision (4) of this subsection, an electrical corporation
7 shall make available an economic development rider to customers
8 served under its large power service rate schedule that add
9 incremental demand of at least five hundred kilowatts after
10 November 1, 2015, and that meet either of the following criteria:

11 (a) Demand at a single premises greater than fifteen
12 megawatts and an annual load factor of at least fifty-five
13 percent; or

14 (b) Aggregated large power service demands of greater than
15 thirty megawatts at up to five separate premises.

16
17 The rider shall provide that the incremental increases in
18 electric service billing units by any such customer related to
19 such incremental demand shall qualify for a discount of twenty
20 percent on all rate elements of the electric bill related to such
21 incremental load from the date when the meter has been
22 permanently set until the earlier of the date that the customer's
23 incremental load no longer exceeds the minimum incremental demand
24 or no longer meets the fifty five percent annual load factor, if
25 applicable, or the last day of the customer's one hundred
26 twentieth monthly billing period to which such discount has been
27 applied.

28 (2) Subject to the limitations provided for in subdivision

1 (4) of this subsection, a large power service account that is new
2 to the electrical corporation's system after November 1, 2015,
3 with demand greater than fifteen megawatts and an annual load
4 factor of at least fifty-five percent, shall qualify for a
5 discount of twenty percent on all rate elements of the electric
6 bill from the date when the meter has been permanently set until
7 the earlier of the date that the customer's load no longer
8 exceeds the minimum fifteen megawatts demand or no longer meets
9 the fifty five percent annual load factor, or the last day of the
10 customer's one hundred twentieth billing period to which such
11 discount has been applied.

12 (3) Subject to the limitations provided for in subdivision
13 (4) of this subsection, an electrical corporation shall make
14 available an economic development rider to customers served under
15 its large power service rate schedule that added incremental
16 demand of at least five hundred kilowatts on or prior to November
17 1, 2015, are being served under an existing economic development
18 rider on the effective date of this section and that meet either
19 of the following criteria:

20 (a) Demand at a single premises greater than fifteen
21 megawatts and an annual load factor of at least fifty-five
22 percent; or

23 (b) Aggregated large power service demands of greater than
24 thirty megawatts at up to five separate premises.

25
26 The rider shall provide that the incremental increases in
27 electric service billing units by any such customer related to
28 such incremental demand taken under an existing economic

1 development rider on the effective date of this section shall
2 qualify for a discount of twenty percent on all rate elements of
3 the electric bill related to such incremental load from the
4 effective date of this section until the earlier of the date that
5 the customer's incremental load no longer exceeds the minimum
6 incremental demand or no longer meets the fifty five percent
7 annual load factor, if applicable, or the last day of the
8 customer's one hundred and twentieth monthly billing period after
9 the effective date of this section. The rider shall also provide
10 that the discount provided under the existing economic
11 development rider shall terminate effective with the
12 effectiveness of the discount provided under this subdivision.

13 (4) The reduced revenues arising from the discounts
14 provided by subdivisions (1), (2) or (3) of this subsection shall
15 be borne by the electrical corporation's customer classes other
16 than its large power service class by allocating the impact of
17 the reduced revenues equally to such other customer classes and
18 equally among all rate elements within each such class, and
19 recovered from such other classes through the electrical
20 corporation's rates beginning with rates established through the
21 electrical corporation's second performance-based rate filing or,
22 thereafter, through rates established under section 393.150. For
23 the period between the effective date of this section until rates
24 become effective through the electrical corporation's second
25 performance-based rate filing, the reduced revenues arising from
26 the discounts provided by subdivisions (1), (2), or (3) of this
27 subsection shall be deferred, with interest at the electrical
28 corporation's short-term borrowing rate, which deferred amounts

1 shall be recoverable through performance-based rates or rates set
2 under section 393.150. In no event shall a customer receiving an
3 aluminum smelter rate under section 393.1580 qualify for the
4 riders or discounted rates provided for in subdivisions (1) to
5 (3) of this subsection, nor shall a customer receiving such an
6 aluminum smelting rate bear any portion of the impact of the
7 reduced revenues arising from the discounts provided for by such
8 subdivisions. In no event shall any customer's premises served
9 under this subsection qualify for any additional economic
10 development offerings of the electrical corporation. To qualify
11 for the discounted rates provided for in this section, customers
12 must meet the applicable criteria at the time the meter is
13 permanently set, and annually thereafter. Whether the customer
14 continues to meet the applicable criteria annually thereafter
15 shall be determined at the end of each calendar year based on
16 metering data for such calendar year. If such data indicates
17 that the customer did not meet the criteria for such calendar
18 year, it shall thereafter no longer qualify for the discounted
19 rate.

20 (5) For purposes of this section, "electrical corporation"
21 does not include an electrical corporation regulated under
22 chapters 386 and 393 but not subject to the commission's
23 jurisdiction over its rates, financing, accounting or management
24 under subsection 2 of section 393.110. Electrical corporations
25 shall not be required to offer the riders and discounts after
26 December 31, 2026; provided, that for customers receiving
27 discounts under this section as of that date the discounts shall
28 continue for the duration provided for by this section.

1 393.1530. 1. Beginning on or before May first of the year
2 subsequent to the year in which the performance-based rates are
3 first filed with the commission under section 393.1525, and
4 continuing annually thereafter, the participating electrical
5 corporation shall make an annual filing with the commission to
6 update the inputs for the performance-based rate tariffs
7 established under section 393.1525 in order to establish new
8 performance-based rates for the upcoming rate year. The first
9 update of performance-based rates shall be filed notwithstanding
10 the fact that a participating electrical corporation may have
11 filed for approval of tariffs under section 393.1525 and the
12 commission has not yet issued a final order approving the filed
13 tariffs; provided however, that the participating electrical
14 corporation shall be permitted to make changes as necessary to
15 reflect in its subsequent performance-based rate tariff filing
16 decisions made by the commission in its initial performance-based
17 rate tariff filing. Annual update filings shall continue each
18 year until such time as a participating electrical corporation's
19 performance-based rate tariffs terminate. The annual update
20 filing shall also include the applicable reconciliation of the
21 cost of service, performance-related metric adjustments, if any,
22 under subsection 3 of section 393.1520 including the impact of
23 any performance metrics, the revenue test provided for in this
24 section, and the updated return on equity calculated under
25 subsection 1 section 393.1520, and shall be subject to the
26 operation of the rate increase limitations imposed under section
27 393.1540. The annual update filing shall conform to the
28 following:

1 (1) The inputs to the performance-based rate tariff used to
2 calculate the cost of service used to set the revenue requirement
3 and rates for the upcoming rate year shall be based on final
4 historical data reflected in the participating electrical
5 corporation's annual FERC Form 1 for the historical rate year,
6 except as set forth in subdivisions (2) to (6) of subsection 2 of
7 section 393.1525;

8 (2) The filing shall also include a reconciliation of the
9 cost of service that, taking into account the effect of any
10 amounts associated with the operation of section 393.1540, was
11 used to set rates for the historical rate year with the actual
12 cost of service for that year based upon the FERC Form 1 for that
13 historical rate year. The reconciliation shall be calculated in
14 a manner that permits the participating electrical corporation to
15 recover its actual cost of service and any amortizations
16 recoverable under performance-based rate tariffs. For purposes
17 of the reconciliation calculation, an average value of the rate
18 base for the historical rate year shall be used. Any over-
19 collection or under-collection indicated by such reconciliation
20 shall reduce or increase the final revenue requirement that, but
21 for the reconciliation, would have been used to set rates for the
22 upcoming rate year. Carrying costs shall be included on any over
23 or under-collection resulting from reconciliation of costs under
24 this subdivision at a rate equal to the weighted average cost of
25 capital for the participating electrical corporation. The first
26 reconciliation used to set rates shall occur after the completion
27 of a calendar year in which performance-based rates are in effect
28 for the entire year or a part of a year. If performance-based

1 rates under this section are first initiated after January first
2 of a calendar year, the reconciliation shall be based upon actual
3 costs of service for that year compared to a revenue requirement
4 that is prorated between the revenue requirement for the period
5 in which performance-based rates were in effect and, for the
6 portion of the year prior to effective performance-based rates,
7 the most recently established revenue requirement resulting from
8 a general rate proceeding approved by the commission in effect
9 under section 393.150, excluding any portion of the revenue
10 requirement allocated to customers eligible for service under
11 section 393.1580. The first reconciliation occurring under this
12 section is not intended to provide for the recovery of costs
13 previously excluded from rates based on a prior commission order
14 finding imprudence. Each reconciliation shall be certified by
15 the participating electrical corporation's management.

16 (3) The revenue requirement included in the annual update
17 filing shall also include an adjustment to reflect the results of
18 a revenue test calculated as follows:

19 (a) If the participating electrical corporation's actual
20 earned rate of return on equity for the historical rate year,
21 after taxes, is two-tenths of one percentage point above the rate
22 of return on equity calculated under section 393.1520 for the
23 reconciliation of the applicable historical rate year, including
24 the effect of any performance metrics, for the period subject to
25 reconciliation, then the participating electrical corporation
26 shall apply a credit through the performance-based rates that
27 reflects an amount equal to the value of that portion of the
28 earned rate of return on equity that is higher than two-tenths of

1 one percentage point above the rate of return on equity
2 calculated under section 393.1520, including the effect of any
3 performance metrics. If the participating electrical corporation
4 earned rate of return on equity for the historical rate year,
5 after taxes, is lower than two-tenths of one percentage point
6 below the return on equity calculated under section 393.1520 for
7 the reconciliation of the applicable historical rate year,
8 including the effect of any performance metrics, then the
9 participating electrical corporation shall apply a charge through
10 the performance-based rates that reflects an amount equal to the
11 value of that portion of the earned rate of return on equity that
12 is lower than two-tenths of one percentage point below the rate
13 of return on equity calculated under section 393.1520, including
14 the effect of any performance metrics. For the purposes of this
15 paragraph, the actual return on equity shall be calculated using
16 historical rate year data and will be equal to the actual return
17 divided by the actual average equity. For purposes of this
18 paragraph, the actual return shall be calculated by adding actual
19 billed retail customer revenues for the historical rate year, the
20 actual change in unbilled retail customer revenues for the
21 historical rate year, and the reconciliation amount calculated in
22 subdivision (2) of this subsection, and then subtracting the
23 actual costs based on FERC Form 1 for the historical rate year,
24 including the same accounting adjustments to FERC Form 1 costs
25 used to establish the revenue requirement and set rates under the
26 operation of this section and section 393.1525; provided however,
27 no weather normalization adjustments shall apply. Actual retail
28 customer revenues shall include the amortizations used to set

1 rates under this section for the historical rate year. Revenues
2 received from customers taking service under section 393.1580
3 shall be excluded from the calculation of actual retail customer
4 revenues for purposes of this paragraph. For purposes of this
5 paragraph, the actual average equity shall be calculated as the
6 product of the average rate base and equity percentage used for
7 the reconciliation amount in subdivision (2) of this subsection;

8 (b) The revenue test adjustment provided for under this
9 subdivision shall not become operative until the electrical
10 corporation's first reconciliation occurs. For years in which a
11 partial period of performance-based rates are in effect, the
12 return on equity shall be measured consistent with a proration,
13 by month, between the return on equity consistent with section
14 393.1520 and the last commission authorized return used to set
15 rates for the participating electrical corporation in a
16 commission proceeding effectuating a general change in rates;

17 (4) The new charges shall take effect January first each
18 year after an annual update filing has been made; and

19 (5) The annual update filing shall include supporting
20 prefiled direct testimony and exhibits offered by the
21 participating electrical corporation.

22 2. In the proceeding to review a participating electrical
23 corporation's annual update filing, the commission shall have the
24 authority to review the prudence of the actual costs incurred by
25 the participating electrical corporation to be used in the
26 reconciliation of cost of service as prescribed by subdivision
27 (2) of subsection 1 of this section, and nothing in this section
28 is intended to prevent the commission from reviewing a

1 participating electrical corporation's books, records, and
2 accounts and making such adjustments to FERC Form 1 data as
3 necessary to ensure that only accurately recorded, prudently
4 incurred, and properly allocated Missouri jurisdictional costs of
5 providing retail electric service are recovered through its
6 performance-based rate tariffs. The commission shall further
7 have the authority to make any adjustments necessary to correct
8 accounting mistakes and errors that may appear in the FERC Form 1
9 or the participating electrical corporation's proposed revenue
10 requirement. The commission shall have the authority to receive
11 evidence concerning prudence of the actual cost of service and
12 accuracy of revenue requirement calculations consistent with the
13 tariffs and protocols established in accordance with section
14 393.1525, and hold an evidentiary hearing to consider evidence
15 from interested parties consistent with the time requirements
16 provided for under this section. The commission may approve
17 adjustments to such performance-based rates filed by the
18 participating electrical corporation only upon finding, after
19 hearing and supported by competent and substantial evidence, that
20 such performance-based rates do not meet the requirements
21 sections 393.1500 to 393.1575 or that such performance-based
22 rates seek to recover costs that have been imprudently incurred.
23 In assessing prudence, the commission shall employ the standard
24 it has historically used in proceedings under which a review of a
25 general rate increase is considered. The commission may also
26 approve adjustments to reflect the approved financial penalties
27 or incentives for the performance metrics provided for under
28 section 393.1520. The commission shall provide reasonable notice

1 of any procedural schedule and evidentiary hearing to interested
2 parties. Discovery shall be allowed consistent with the
3 commission's rules governing the conduct of commission
4 proceedings. The commission shall not, however, have the
5 authority in a proceeding under this section to consider or order
6 any changes to the structure or protocols of the performance-
7 based rate approved under section 393.1535. In a proceeding
8 under this section, the commission shall enter its order no later
9 than the earlier of two hundred ten days after the participating
10 electrical corporation's filing of its annual update of cost
11 inputs to the performance-based rate or December first, with
12 rates to be effective on the first billing day of the calendar
13 year after the year in which the filing was made. The commission
14 shall establish a procedural schedule that requires all parties
15 objecting to any portion of the applicant's proposal to file
16 prefiled rebuttal testimony and other documentary evidence. The
17 commission shall also allow parties, other than the participating
18 electrical corporation, to respond to each other through prefiled
19 cross-rebuttal testimony, and the participating electrical
20 corporation shall be permitted to respond to all parties'
21 prefiled testimony through the filing of prefiled surrebuttal
22 testimony. Aside from corrections of mistakes in earlier-filed
23 testimony, after the participating electrical corporation files
24 surrebuttal testimony, no further prefiled testimony shall be
25 received. If no objection to the participating electrical
26 corporation's annual update filing is received, the commission
27 may dispense with the remainder of the procedural schedule and
28 enter an order approving the updated rates. The rates approved

1 by the commission for an applicable rate year shall be final upon
2 entry of the commission's order and shall not be subject to
3 reopening, reexamination, or collateral attack in any other
4 proceeding before the commission or the courts; provided however,
5 that nothing in this section shall prohibit a party from seeking
6 rehearing and judicial review upon compliance with sections
7 386.500 and 386.510.

8 3. Except as provided in subsections 5 and 6 of section
9 393.1525, performance-based rate tariffs approved under this
10 section shall provide for equal percentage changes in customer
11 rates, positive or negative, consistent with the rate design used
12 in the participating electrical corporation's initial
13 performance-based rate tariffs approved under section 393.1525,
14 with the exception of customers qualifying for rates under
15 section 393.1580, until such time as a new rate design is
16 approved by the commission consistent with the requirements of
17 section 393.1535.

18 393.1535. A participating electrical corporation shall make
19 a filing with the commission concurrently with its fifth filing
20 required by subsection 1 of section 393.1530 that proposes
21 revenue-neutral rate design changes or proposes to leave rate
22 design unchanged. The participating electrical corporation shall
23 rely upon the average and excess methodology for the allocation
24 of fixed production related costs to customers taking service
25 under the large power service rate schedule as the basis for its
26 proposed rate design changes, if any. In the event the
27 participating electrical corporation proposes no changes, it
28 shall report to the commission, as part of its filing made under

1 this section, the results of an embedded class cost of service
2 study using the average and excess methodology for, at a minimum,
3 customers served under the large power service rate schedule, and
4 submit the impact the adoption of such a methodology would have
5 on rates for each respective customer class. If the
6 participating electrical corporation elects to rely upon the
7 average and excess methodology as defined in section 393.1510 as
8 the basis to set rates for some or all other customer classes in
9 addition to those served under the large power service rate
10 schedule, such election shall be binding on the commission. All
11 changes shall be implemented prospectively, and implemented at
12 the same time new annual rates are made effective. In the event
13 that rate design changes are approved and cannot be implemented
14 because the provisions of sections 393.1500 to 393.1555 no longer
15 apply as provided for by section 393.1575, the commission may
16 implement rate design changes effective upon the conclusion of
17 the first general rate proceeding occurring after termination. A
18 participating electrical corporation may submit a depreciation
19 study for approval at any time; provided however, it must submit
20 a depreciation study, or revised study, no later than the time
21 when it submits its proposed rate design changes, or requests no
22 changes be made. If approved by the commission, revised
23 depreciation rates shall be used to set rates prospectively
24 pursuant to a participating electrical corporation's annual
25 update filing.

26 393.1540. 1. Performance-based rates shall be subject to
27 both an annual increase limitation, and also an average annual
28 increase limitation in determining revenue requirement increases

1 for all customers in the aggregate whose rates are set under
2 sections 393.1500 to 393.1575, which shall be determined
3 exclusive of revenue neutral rate design changes. For the
4 purposes of this section, the annual percentage increases shall
5 be calculated by comparing the revenue requirement, including any
6 reconciliation amount included in rates under section 393.1530,
7 in effect for the filing year, with what the revenue requirement,
8 including any reconciliation amount included in rates under
9 section 393.1530, used to calculate rates for the rate year would
10 have been absent the applicability of any increase limitation.
11 For each year to which sections 393.1500 to 393.1555 apply, the
12 participating electrical corporation shall adhere to the increase
13 limitations provided for under this section, and to the extent a
14 revenue requirement increase would exceed the limitations for the
15 rate year, the participating electrical corporation shall reduce
16 the revenue requirement in order to bring the prospective revenue
17 requirement increase under the increase limitations set forth in
18 this section. Any amount excluded from a participating
19 electrical corporation's revenue requirement due to a rate
20 increase limitation applied to a rate year shall be carried
21 forward and recovered in the subsequent rate year by inclusion of
22 such amount in the participating electrical corporation's revenue
23 requirement in the annual update filing made during the rate year
24 affected by the limitation.

25 2. The participating electrical corporation's filing of the
26 initial performance-based rate tariffs under section 393.1525
27 shall reflect the limitations and related requirements set forth
28 in this section. Thereafter, each participating electrical

1 corporation shall file an annual report with the commission in
2 its annual update filing that sets forth the annual and average
3 annual increase in the revenue requirement used to set retail
4 electric service rates for customers subject to performance-based
5 rates on an aggregated basis. Annual increases of the revenue
6 requirement used to set rates shall be limited to no more than
7 two percent for the first two rate adjustments approved by the
8 commission under sections 393.1500 to 393.1575. Thereafter,
9 until the operation of this section is terminated under section
10 393.1575 or by voluntary termination election of a participating
11 electrical corporation under section 393.1560, the annual
12 increase limitation shall equal four and one-half percent. In
13 calculating the annual increase limitation applicable to the
14 initial performance-based rate tariffs and rates, the
15 participating electrical corporation shall utilize the revenue
16 requirement used to set retail electric service rates pursuant to
17 the last general change in rates approved by the commission
18 together with net fuel and purchased power collected under
19 subsection 1 of section 386.266 during the twelve months
20 following the effective date of the change in rates as base
21 revenue requirement. If at the time initial performance-based
22 rate tariffs are filed under section 393.1525, a full twelve
23 months since the last change in rates has not yet occurred, the
24 participating electrical corporation may project the net fuel and
25 purchased power for the purpose of establishing the base revenue
26 requirement used in calculating the increase limitation, to be
27 updated with actual net fuel and purchased power recoveries prior
28 to the commission's final order. In the first year a rate

1 increase limitation is calculated under this section, if the
2 revenue requirement used to set rates prior to the adoption of
3 performance-based rate tariffs included an allocation of cost of
4 service responsibility to a customer classification under which
5 an aluminum smelting facility, as defined in section 393.1580,
6 took service, or payments by such an aluminum smelting facility
7 pursuant to a rate adjustment mechanism approved under subsection
8 1 of section 386.266, the cost of service allocation to such
9 class and the payments under such a rate adjustment mechanism
10 shall be removed from the base revenue requirement for the
11 purposes of calculating the applicable rate increase limitation.
12 In addition, because the definition of revenue requirement in
13 subdivision (19) of subsection 2 of section 393.1510 reflects a
14 reduction to account for the revenues received from customers
15 receiving service under an aluminum smelter rate under section
16 393.1580, a further adjustment to such revenue requirement to
17 account for such revenues for purposes of determining the
18 limitations provided for in this section shall not be made. If
19 the exclusion set forth in subdivision (2) of subsection 3 of
20 this section applies, the participating electrical corporation
21 shall not include net fuel and purchased power in the base
22 revenue requirement used to calculate any increase limitation.
23 Additionally, the average annual revenue requirement increase
24 over the duration of the participating electrical corporation's
25 performance-based rate tariff shall not exceed an average annual
26 increase of three and one-quarter percent, compounded annually
27 using the number of annual periods between the effective date of
28 the last general change in rates approved by the commission prior

1 to the adoption of performance-based rates for the participating
2 electrical corporation and the first day of January for the
3 upcoming rate year. Every month subsequent to the effective date
4 of the last general change in rates approved by the commission
5 for the participating electrical corporation shall constitute
6 one-twelfth of an annual period. The average annual increase
7 calculation shall be calculated and reported annually by the
8 participating electrical corporation. For the purposes of
9 calculating an average annual increase under this section, the
10 first day of the annual periods included in the annual average
11 shall be the day immediately after the effective date of the last
12 general change in rates approved by the commission prior to the
13 adoption of performance-based rates for the participating
14 electrical corporation, and shall utilize the revenue requirement
15 used to set retail electric service rates pursuant to the last
16 general change in rates approved by the commission together with
17 net fuel and purchased power collected under section 386.266
18 during the twelve months following the effective date of the
19 change in rates as the base revenue requirement, and include each
20 revenue requirement used to set performance-based rates for
21 retail electric service under this section in effect for all
22 years in which performance-based rates are in effect as well as
23 the upcoming rate year. If at the time initial performance-based
24 rate tariffs are filed under section 393.1525, a full twelve
25 months since the last change in rates has not yet occurred, the
26 participating electrical corporation may project the net fuel and
27 purchased power for the purpose of establishing the base revenue
28 requirement utilized in calculating the average annual increase

1 limitation, to be updated with actual net fuel and purchased
2 power recoveries prior the commission's final order. If the
3 exclusion set forth in subdivision (2) of subsection 3 of this
4 section applies, the participating electrical corporations shall
5 not include net fuel and purchased power in the calculation of
6 the average annual increase limitation for any period included in
7 the calculation.

8 3. At the time of a participating electrical corporation's
9 initial performance-based rate filing or any subsequent annual
10 update filing, the participating electrical corporation shall
11 analyze the revenue requirement increase to be proposed and
12 determine if the increase exceeds the limitations set forth in
13 this section, and to the extent a limitation is exceeded, the
14 participating electrical corporation shall reduce the revenue
15 requirement in an amount sufficient to bring any increase under
16 the applicable increase limitation consistent with this section.
17 Notwithstanding the application of an increase limitation, all
18 costs are subject to a prudence review in the year in which they
19 are incurred, and after the commission enters a final order for
20 any change in rates made under this section, the determination of
21 the prudence of the deferred or amortized costs shall be final
22 and shall not be subject to reopening, reexamining, or collateral
23 attack in any other proceeding; provided however, that nothing in
24 this section shall prohibit a party from seeking rehearing and
25 judicial review upon compliance with sections 386.500 and
26 386.510. Upon the issuance of a final order by the commission in
27 a rate proceeding, the participating electrical corporation shall
28 calculate the final revenue requirement reduction required to

1 meet any applicable increase limitations set forth in this
2 section, and disclose the results of that calculation in a notice
3 filed with the commission within seven days of receipt of service
4 by a participating electrical corporation of the commission's
5 final order. Carrying costs at a rate equal to the participating
6 electrical corporation's cost of short-term debt shall be applied
7 to any balance carried forward by operation of this section and
8 section 393.1560. For purposes of this section and section
9 393.1560, the following exclusions shall apply to the calculation
10 of any revenue requirement increase limitation:

11 (1) All costs, expenses, accounting balances, and variable
12 revenue items that may affect the revenue requirement used to set
13 rates under performance-based rate tariffs shall be excluded, as
14 follows:

15 (a) Any fiscal effects, whether capital or expense,
16 experienced by a participating electrical corporation, including
17 compliance costs or any foregone wholesale power sales or off-
18 system power sales, arising primarily from complying with any new
19 and existing federal and state environmental regulations, laws,
20 civil judgments, regulatory actions, or executive orders
21 addressing carbon dioxide, coal combustion residuals, nitrogen
22 oxides, sulfur dioxides, mercury, particulates, water issues or
23 other environmental matters; however, for any participating
24 electrical corporation serving more than one million Missouri
25 electric customers on the date that it elects to become a
26 participating electrical corporation, aggregate capital costs
27 which would otherwise qualify for this exclusion during the
28 entire period during which the electrical corporation is a

1 participating electrical corporation equal to nine percent of the
2 participating electrical corporation's net plant in service used
3 to set its rates in its last general rate proceeding prior to
4 becoming a participating electrical corporation shall not qualify
5 for this exclusion; and provided further, for any participating
6 electrical corporation serving one million Missouri electric
7 customers or fewer on the date that it elects to become a
8 participating electrical corporation, aggregate capital costs
9 which would otherwise qualify for this exclusion during the
10 entire period during which the electrical corporation is a
11 participating electrical corporation equal to five percent of the
12 participating electrical corporation's net plant in service used
13 to set its rates in its last general rate proceeding prior to
14 becoming a participating electrical corporation shall not qualify
15 for this exclusion;

16 (b) Charges associated with rates established under section
17 393.1075, or energy efficiency related charges generally
18 including provision for the financial impact of sales reductions
19 attributable to energy efficiency programs;

20 (c) Variability in revenue and net fuel and purchased power
21 costs due to weather;

22 (d) Local add-on taxes or franchise fees; and

23 (e) Amounts associated with force majeure events;

24 (2) For a participating electrical corporation with two
25 hundred thousand Missouri electric customers or less as of the
26 date it files performance-based rate tariffs under section
27 393.1525 the following shall be excluded:

28 (a) Any costs that are recovered in a rate adjustment

1 mechanism approved under subsection 1 of section 386.266; and

2 (b) Capital or other costs incurred to build, produce or
3 acquire renewable energy resources, as defined in subsection 1 of
4 section 393.1025, to the extent those costs are incurred to
5 replace electric energy or capacity from a renewable energy
6 resource as defined in section 393.1025, the cost of which was
7 previously recovered through a rate adjustment mechanism approved
8 under subsection 1 of section 386.266.

9 4. Any amount excluded from rates due to the limitations
10 provided for under this section in the last year to which
11 sections 393.1500 to 393.1555 apply as provided for in section
12 393.1575 shall be carried forward with interest at the
13 participating electrical corporation's short-term borrowing rate
14 and recovered consistent with the provisions of section 393.1560;
15 provided however, that any such amount carried forward shall not
16 exceed four and one-half percent of the revenue requirement used
17 to set the participating corporation's performance-based rates in
18 the last year to which sections 393.1500 to 393.1555 apply.

19 393.1545. 1. Any rate adjustment mechanism authorized
20 under subsection 1 of section 386.266 shall be suspended by a
21 participating electrical corporation consistent with the
22 requirements set forth in section 393.1525, provided that the
23 mechanism shall survive until such time as any costs and revenues
24 accumulated prior to the effective date of the performance-based
25 rates are fully recovered over a transition period not to exceed
26 twenty-four months. During the transition period, the
27 participating electrical corporation shall account for all
28 revenues and costs and make all necessary ratemaking adjustments

1 to prevent any over or under recovery of any net fuel and
2 purchased power costs prudently incurred during any period
3 affected by the suspension of the rate adjustment mechanism.
4 Accumulation of costs and revenues to be included in a rate
5 adjustment mechanism operating under subsection 1 of section
6 386.266 shall be suspended as of December thirty-first of the
7 year prior to the initial rate year. Any increase limitation
8 calculated under section 393.1540 shall include any charges that
9 are recovered through a rate adjustment mechanism during the
10 transition period. If for any reason performance-based rate
11 tariffs are withdrawn or otherwise do not become effective, the
12 accumulation periods shall resume and include any net fuel and
13 purchase power cost that would have accumulated during the period
14 of suspension. Upon approval of the performance-based rate
15 tariffs, all costs and revenues that would have otherwise been
16 accumulated for recovery under the suspended rate adjustment
17 mechanism shall thereafter be included for recovery pursuant to
18 the operation of performance-based rate tariffs approved by the
19 commission in accordance with the provisions of sections 393.1500
20 to 393.1575 and reconciled to actual expenses incurred for the
21 same period under section 393.1530. At the time initial rates
22 are filed under section 393.1525, the participating electrical
23 corporation shall reflect, to the extent applicable, an
24 adjustment or adjustments, if needed, in order to ensure timely
25 recovery and to prevent any double recovery of any costs from
26 occurring during the rate year, or rate years, a transition
27 period is in effect. After the transition period terminates, any
28 remaining costs or revenues shall be included in the

1 reconciliation balance approved under section 393.1530. For any
2 costs previously recovered under a rate adjustment mechanism
3 approved under subsection 1 of section 386.266, one hundred
4 percent of all such costs shall be fully incorporated in
5 performance-based rates, without any sharing or other division
6 between the participating electrical corporation and customers.
7 Participating electrical corporation transmission charges and
8 revenues of any kind shall be fully reflected in performance-
9 based rates, provided such charges or revenues were prudently
10 incurred. Nothing in this section shall be interpreted to
11 require a participating electrical corporation to forgo, or
12 permit the commission to disallow, recovery of any prudently
13 incurred costs as a result of the suspension of a rate adjustment
14 mechanism and cost recovery transition to performance-based rate
15 recovery.

16 2. Any rate adjustment mechanism that is suspended by
17 voluntary election of a participating electrical corporation
18 under section 393.1525, other than those operating under
19 subsection 1 of section 386.266, shall be transitioned into
20 performance-based rate recovery in a manner that provides for
21 complete recovery of costs and prevents double recovery of costs
22 from customers. If a participating electrical corporation
23 proposes suspension of any rate adjustment mechanism, other than
24 those operating under subsection 1 of section 386.266, the
25 electrical corporation shall submit a transition plan with its
26 initial performance-based rate tariffs that provides for cost
27 recovery transition substantially consistent with requirements
28 subsection 1 of this section.

1 3. Regulatory trackers adopted or used by the commission in
2 the participating electrical corporation's most recently
3 concluded general rate proceeding prior to the initiation of
4 performance-based rate tariffs for the participating electric
5 utility with respect to pension expense, other post-employment
6 benefits, and costs related to Financial Accounting Standards
7 Board Interpretation No. 48 shall continue to be recognized for
8 ratemaking purposes pursuant to performance-based rate tariffs
9 for participating electrical corporations. If requested by a
10 participating electrical corporation, the commission shall also
11 authorize a tracker designed to permit the participating
12 electrical corporation to recover solar rebate costs incurred
13 under section 393.1610 prior to the effective date of
14 performance-based rates. The prospective operation of all other
15 commission approved regulatory trackers shall be suspended with
16 the effective date of the initial performance-based rate tariff
17 for a participating electrical corporation that filed the
18 performance-based rate tariff. Thereafter, all costs and
19 revenues that would have been included previously in the
20 suspended trackers shall be included in the determination of the
21 cost of service used to set rates under sections 393.1500 to
22 393.1575. Any historical balances remaining from a suspended
23 regulatory tracker shall continue to be recognized and recovered
24 in a participating electrical corporation's performance-based
25 rate tariffs consistent with the amortization period previously
26 approved by the commission in the participating electrical
27 corporation's most recently concluded general rate proceeding.
28 If special regulatory accounting authority has been requested but

1 not approved prior to the adoption of performance-based rates,
2 the participating electrical corporation may request inclusion of
3 any associated balances or amounts at the time it makes its
4 initial filing under section 393.1525; provided however, the
5 commission has the discretion to approve or deny the request for
6 good cause. Upon termination of any performance-based rate
7 tariffs, any trackers, rate adjustment mechanisms including those
8 effective under section 386.266, regulatory assets or
9 liabilities, and accounting authority authorization, or other
10 special regulatory accounting treatment existing prior to
11 approval of the effective date of the participating electrical
12 corporation's initial performance-based rate tariffs shall be
13 automatically reactivated and the electrical corporation shall
14 account for them in the same manner as was previously approved by
15 the commission in the participating electrical corporation's most
16 recently concluded general rate proceeding prior to the adoption
17 of performance-based rate tariffs; provided however, that such
18 commission action must be consistent with the provisions of
19 section 386.266 in effect at the time of reactivation.

20 393.1550. A participating electrical corporation may
21 petition the commission to allow for deferral and amortization of
22 any significant balance or amount, over multiple years, in order
23 to prevent unnecessary volatility in performance-based rates.
24 The commission shall allow the participating electrical
25 corporation to spread the deferred and amortized amount over a
26 period not to exceed five years. The participating electrical
27 corporation shall demonstrate that the amount subject to the
28 proposed deferral and amortization is significant and would cause

1 volatility in rate recovery under performance-based rate tariffs.
2 Any deferral or amortization shall include carrying costs at a
3 rate equal to the weighted average cost of capital of the
4 participating electrical corporation, and the amortization shall
5 be included and recovered as part of the reconciliation balance
6 under section 393.1530. A participating electrical corporation
7 may request deferred rate recognition of reconciliation amounts
8 or balances resulting from fluctuations in revenue due to
9 anomalous events that would cause a one-time or sudden reduction
10 in rates in a manner that interferes with the participating
11 electrical corporation's ability to maintain rate stability
12 during the effective date of operation of sections 393.1500 to
13 393.1575; provided however, that the petition must specifically
14 state the rationale for the requested relief and the specific
15 circumstances justifying multi-year recognition in rates and
16 provide customers the benefit of any carrying costs at a rate
17 equal to the weighted average cost of capital of the
18 participating electrical corporation. The commission shall grant
19 or deny the request within one hundred twenty days from the date
20 that the petition was filed. If the participating electrical
21 corporation demonstrates, by a preponderance of the evidence,
22 that absent the amortization being granted, the balance or amount
23 would increase or decrease annual revenue requirement by greater
24 than one percent, the commission shall grant approval of the
25 amortization requested. If the significant balance or amount
26 would increase or decrease revenue requirement by less than one
27 percent, a participating electrical corporation may file a
28 petition; provided however, that the commission has the

1 discretion to grant or deny the petition for good cause based
2 upon the evidence presented.

3 393.1555. 1. Sections 393.1500 to 393.1575 may be
4 implemented by electrical corporations on and after their
5 effective date regardless of whether the commission has enacted
6 any rules related to these sections. The deadlines and time
7 periods under sections 393.1500 to 393.1575 are mandatory, and
8 any tariffs filed, rates proposed, or regulatory relief requested
9 shall take effect by operation of law if not acted upon by the
10 commission within the time periods specified. Participating
11 electrical corporations are required to adhere to the time
12 periods and procedural requirements under sections 393.1500 to
13 393.1575, and any change in effective tariffs or rates shall
14 reflect an effective date consistent with the time limits set
15 forth in sections 393.1500 to 393.1575. The commission is not
16 required to issue an order suspending any tariffs or rates filed
17 under sections 393.1500 to 393.1575 during the pendency of
18 review. A failure to act on any tariff, rate, or regulatory
19 relief requested shall result in the tariff, rate, or regulatory
20 relief requested becoming effective by operation of law and the
21 commission shall no longer retain authority to suspend or
22 otherwise interfere with the operation of the effective tariffs.
23 The commission may waive review or audit of any tariff filing or
24 change in any performance-based rate tariffs if the commission
25 determines that such action is in the interest of the public;
26 provided however, that any annual update filing effectuating
27 changes to performance-based rates under section 393.1530 shall
28 not take effect until January first following an update filing.

1 In reviewing any application, petition, or tariff filed under
2 sections 393.1500 to 393.1575, the commission shall only have the
3 authority to act upon such filing in a manner consistent with the
4 requirements and intent of such sections.

5 2. If a participating electrical corporation is acquired,
6 merged with, or otherwise subject to a change in corporate
7 control or ownership, the operation of performance-based rate
8 tariffs shall remain in effect. In no event shall the commission
9 require a participating electrical corporation to withdraw from
10 participating in performance-based rates as a condition of
11 approval for an acquisition, merger, or other change in corporate
12 ownership or control.

13 3. A participating electrical corporation shall be
14 permitted to propose changes to the performance-based rate
15 structure or protocols subsequent to the approval of the initial
16 tariffs and rates, and the review of the proposed changes shall
17 be consistent with the commission's practice for approving
18 electrical corporation tariffs. Nothing in sections 393.1500 to
19 393.1575 is intended to limit the commission's authority under
20 chapter 386 and chapter 393 to review or investigate a
21 participating electrical corporation's performance-based rate
22 tariff in order to ensure that the tariff is operating in a
23 manner that provides for just and reasonable rates based on
24 recovery of only prudently incurred costs of providing retail
25 electric service, provided that any investigation, changes, or
26 other exercise of authority shall be consistent with the
27 requirements of sections 393.1500 to 393.1580. Any change in
28 performance-based rate tariffs shall be prospective, and any

1 change in rates resulting from a tariff change ordered by the
2 commission shall be made at the same time new rates take effect
3 following the commission's next order issued under section
4 393.1530.

5 4. Nothing in sections 393.1500 to 393.1575 shall be
6 interpreted to restrict an individual consumer from filing a
7 complaint with the commission under section 386.390.

8 5. A participating electrical corporation shall be
9 permitted to request approval of a new service or tariff and
10 associated rate schedules. If a new service or tariff is
11 proposed and approved by the commission, the commission's final
12 order issued addressing the proposed tariffs shall address the
13 method of recognizing any anticipated or actual revenue
14 contributed to the participating electrical corporation's cost of
15 service. A participating electrical corporation shall be
16 permitted to request commission approval of the cancellation of a
17 service or rate schedule associated with a service that will no
18 longer be provided. If the commission approves the cancellation
19 of a tariff or service or rate schedule associated with a service
20 to no longer be provided, the commission shall address the
21 appropriate method for adjusting performance-based rates to
22 reflect any revenue that will no longer be received from the
23 cancelled service. In the event of a new service being added or
24 an existing service or rate schedule being cancelled, the
25 commission shall ensure prudently incurred costs are recovered
26 and that no double recovery occurs, and shall have the authority
27 to make associated adjustments in a proceeding initiated under
28 sections 393.1525 and 393.1530.

1 6. The commission shall retain its existing authority to
2 hold public hearings seeking comment from members of the public
3 concerning any change in tariff rates and services proposed by a
4 participating electrical corporation.

5 393.1560. 1. (1) Rates set under sections 393.1500 to
6 393.1555 shall continue in effect after the last year to which
7 sections 393.1500 to 393.1555 apply, except that such rates shall
8 be changed effective January first of the year following the last
9 year to which sections 393.1500 to 393.1555 apply through the
10 annual update filing made in the last year to which sections
11 393.1500 to 393.1555 apply, in order to exclude reconciliation
12 balances and carry forward amounts that have been recovered, and
13 to include reconciliation balances arising from the year
14 immediately prior to the last year to which sections 393.1500 to
15 393.1555 apply and carry forward amounts arising from the last
16 year to which sections 393.1500 to 393.1555 apply; provided
17 however and subject to application of the surcharge and credit
18 provisions of subsection 4 of this section, such rates shall
19 terminate when superseded by rates set in a general rate
20 proceeding completed under section 393.150.

21 (2) If the rates continued in subdivision (1) of this
22 subsection have not been superseded by rates set in a general
23 rate proceeding completed under section 393.150, such rates shall
24 be changed effective January first of the second year following
25 the last year to which sections 393.1500 to 393.1555 apply, in
26 order to exclude reconciliation balances and carry forward
27 amounts that have been recovered, and to include reconciliation
28 balances arising from the last year to which sections 393.1500 to

1 393.1555 apply. A final annual update filing, regardless of
2 whether rates have become effective as the result of a general
3 rate proceeding under section 393.150, shall be made on or before
4 May first of the year following the last year to which sections
5 393.1500 to 393.1555 apply. The reconciliation balance arising
6 from the last year to which sections 393.1500 to 393.1555 apply
7 is recoverable in the second year following the last year to
8 which sections 393.1500 to 393.1555 apply, either as a
9 continuation of the rates described in subdivision (1) of this
10 subsection if such rates were continued or through a surcharge or
11 credit as provided by subsection 4 of this section.

12 (3) All reconciliation balances arising from the last two
13 years to which sections 393.1500 to 393.1555 apply shall include
14 interest at the participating electrical corporation's short-term
15 borrowing rate.

16 2. Any amount excluded from the rates set for the last year
17 to which sections 393.1500 to 393.1555 apply, due to the
18 limitations provided in section 393.1540, shall be carried
19 forward, included in the annual update filing made during the
20 last year to which sections 393.1500 to 393.1555 apply and
21 recovered in the year following the last year to which sections
22 393.1500 to 393.1555 apply.

23 3. If the net adjustment to rates described in subdivision
24 (1) of subsection 1 of this section produces a reduction in rates
25 as compared to the rates that were effective during the last year
26 to which sections 393.1500 to 393.1555 apply, the entire
27 reduction shall be reflected in those rates. If the net
28 adjustment to rates described in subdivision (1) of subsection 1

1 of this section produces an increase in the rates as compared to
2 the rates that were effective during the last year to which
3 sections 393.1500 to 393.1555 apply, the increase shall not
4 exceed four and one-half percent of the revenue requirement used
5 to set rates for the participating electrical corporation in the
6 last year to which sections 393.1500 to 393.1555 apply. If the
7 net adjustment to rates described in subdivision (2) of
8 subsection 1 of this section produces a reduction in rates as
9 compared to the rates that were effective during the year
10 following the last year to which sections 393.1500 to 393.1555
11 apply, the entire reduction shall be reflected in those rates.
12 If the net adjustment to rates described in subdivision (2) of
13 subsection 1 of this section produces an increase in the rates as
14 compared to the rates that were effective during the year
15 following the last year to which sections 393.1500 to 393.1555
16 apply, the rates described in subdivision (2) of subsection 1 of
17 this section shall not change.

18 4. A participating electrical corporation may file a
19 general rate proceeding seeking to implement new rates under
20 section 393.150, with the rates to be effective on or after
21 January first of the year following the last year to which
22 sections 393.1500 to 393.1555 apply. The rates set under section
23 393.150 shall replace the rates set under sections 393.1500 to
24 393.1555; provided however, that in addition to the new rates set
25 in such general rate proceeding, the regulatory asset or
26 liability associated with any reconciliation balances or carry
27 forward amounts recoverable under the provisions of subdivisions
28 (1) through (3) of subsection 1 of this section that have not yet

1 been recovered or credited at the time such new rates take
2 effect, shall be recovered or credited through a surcharge or
3 credit on customer bills. The surcharge or credit shall continue
4 until the regulatory asset or liability balance is fully
5 recovered or credited to customers within twenty-four months
6 after January first of the year following the last year to which
7 sections 393.1500 to 393.1555 apply. In any general rate
8 proceeding initiated under section 393.150 that results in new
9 rates effective within twenty-four months after January first of
10 the last year to which sections 393.1500 to 393.1555 apply, the
11 commission shall have the authority to adjust the rates set in
12 that general rate proceeding in order to prevent double recovery
13 or under recovery of any prudently incurred costs.

14 5. A participating electrical corporation whose rate
15 adjustment mechanism under subsection 1 of section 386.266 was
16 suspended under section 393.1525 shall be reinstated effective
17 January first of the year following the last year specified in
18 subsection 1 of section 393.1575, provided that it shall be
19 reinstated with any modifications necessary to make it consistent
20 with the provisions of section 386.266 in effect on that date,
21 and provided further that if January first of that year is in the
22 middle of an accumulation period provided for by the formerly
23 suspended rate adjustment mechanism's tariff sheets, the first
24 accumulation period prior to filing an adjustment under such rate
25 adjustment mechanism shall be a partial one. The base against
26 which the net costs tracked in such an adjustment mechanism are
27 compared for purposes of making the adjustment shall be the level
28 of costs and revenues covered by the adjustment mechanism

1 according to the terms of the tariff sheets reflecting it,
2 together with any other costs and revenues that are to be
3 included in the mechanism under the terms of subsection 1 of
4 section 386.266 then in effect, for the last year specified in
5 subsection 1 of this section. A participating electrical
6 corporation whose rate adjustment mechanism was reinstated under
7 this subsection shall be relieved of the obligation to make a
8 general rate proceeding filing every four years as otherwise
9 provided for in subsection 4 of section 386.266 in order to
10 retain its rate adjustment mechanism and instead must file such a
11 general rate proceeding no later than four years after the last
12 year to which sections 393.1500 to 393.1555 applied.

13 393.1565. No later than December 31, 2023, the commission
14 shall prepare and file with the general assembly a report on the
15 impact of performance-based rates on electrical corporations and
16 their customers. Participating electrical corporations shall
17 cooperate in good faith to provide data necessary for the
18 preparation of the report.

19 393.1570. In order to carry out the provisions of sections
20 393.1500 to 393.1575, the commission shall have the authority to
21 promulgate rules. Any rule or portion of a rule, as that term is
22 defined in section 536.010 that is created under the authority
23 delegated in this section shall become effective only if it
24 complies with and is subject to all of the provisions of chapter
25 536, and, if applicable, section 536.028. This section and
26 chapter 536 are nonseverable and if any of the powers vested with
27 the general assembly under chapter 536, to review, to delay the
28 effective date, or to disapprove and annul a rule are

1 subsequently held unconstitutional, then the grant of rulemaking
2 authority and any rule proposed or adopted after the effective
3 date of this act shall be invalid and void.

4 393.1575. The last year to which sections 393.1500 to
5 393.1555 apply is 2026, or such earlier year as specified by the
6 participating electrical corporation in a notice filed with the
7 commission no later than twelve months prior to the end of that
8 year. A participating electrical corporation filing notice under
9 the immediately preceding sentence may not thereafter elect to
10 have the provisions of sections 393.1500 to 393.1555 applied to
11 it during any additional year. No electrical corporation shall
12 become a participating electrical corporation by filing a
13 performance-based rate tariff under section 393.1525 after
14 December 31, 2025. No participating electrical corporation shall
15 file an annual update with the commission under section 393.1530
16 after May 1, 2027. Except as provided for in subsection 2 of
17 section 393.1555, nothing in sections 393.1500 to 393.1575 shall
18 affect the commission's authority under sections 393.190 or
19 393.250. Sections 393.1500 to 393.1575 shall expire on December
20 31, 2028.

21 393.1580. 1. The provisions of section 386.020 defining
22 words, phrases, and terms shall apply to and determine the
23 meaning of all such words, phrases, or terms as used in this
24 section.

25 2. For purposes of this section, the following terms shall
26 mean:

27 (1) "Aluminum smelter rate", a contractual per megawatt-
28 hour rate consistent with this section for retail electric

1 energy, including production, transmission, and distribution, to
2 a point of delivery at the interconnection between the electrical
3 corporation transmission or distribution system and an aluminum
4 smelting facility, or the point at which the electrical
5 corporation interconnects with a third party retail or
6 transmission provider serving the aluminum smelting facility, as
7 applicable;

8 (2) "Aluminum smelting facility", a facility whose primary
9 industry is the smelting of aluminum and primary metals and is
10 subject to Standard Industrial Classification code 3334;

11 (3) "Global average price", the global weighted average
12 delivered cost of electricity, inclusive of transmission costs,
13 for aluminum smelters, excluding those located in China, for the
14 most recent complete calendar year, as reported by CRU, or its
15 successor;

16 (4) "Standard industrial classification", the standard
17 industrial classification as such classifications are defined in
18 the 1987 edition of the Standard Industrial Classification Manual
19 as prepared by the Executive Office of the President, Office of
20 Management and Budget;

21 3. (1) Notwithstanding any other provision of law to the
22 contrary, an aluminum smelting facility, and the electrical
23 corporation providing electric service to such aluminum smelting
24 facility, may jointly submit an application to the commission for
25 approval of an aluminum smelter rate. If the proposed aluminum
26 smelter rate agreed upon by the electrical corporation and the
27 aluminum smelting facility complies with the requirements set
28 forth in this section, it shall be deemed a just and reasonable

1 rate.

2 (2) Any such application shall include an executed contract
3 between the aluminum smelting facility and the electrical
4 corporation that sets forth the rates, duration, and terms and
5 conditions for service to the aluminum smelting facility subject
6 to the following requirements:

7 (a) The aluminum smelter rate shall not be seasonably
8 variable;

9 (b) For rates effective prior to January 1, 2017, the
10 initial aluminum smelter rate shall be set not more than thirty-
11 one dollars and fifty cents per megawatt-hour, provided that the
12 rate shall be discounted by an amount not less than one dollar
13 and fifty cents per megawatt-hour to the extent that the aluminum
14 smelting facility incurs transmission or retail wheeling charges
15 or rates assessed by a third party service provider;

16 (c) For rates effective after December 31, 2016, the
17 initial aluminum smelter rate shall be set at a rate agreed upon
18 between the aluminum smelting facility and the electrical
19 corporation;

20 (d) The initial rate per megawatt-hour shall increase by
21 one percent each year, with the first one percent increase
22 becoming effective beginning with the billing cycle that starts
23 twelve months after the effective date of the initial tariff;

24 (e) If the duration of the aluminum smelter rate is longer
25 than five years, beginning with the first billing cycle in year
26 six after the effective date of the initial tariff and for each
27 year thereafter, the rate shall be reset to the global average
28 price. If any aluminum smelting facility continues to incur

1 transmission or retail wheeling charges or rates assessed by a
2 third party service provider, the aluminum smelter rate shall be
3 discounted to be lower than the global average price in an amount
4 equal to the lesser of:

5 a. The transmission or retail wheeling charges or rates
6 assessed by a third party service provider; or

7 b. One dollar and seventy-five cents per megawatt-hour.

8
9 However, in any event such rate shall not increase or decrease by
10 more than six percent in any such annual adjustment.

11 (3) Within thirty days of filing the application, the
12 commission shall issue an order directing the electrical
13 corporation to file tariffs containing the rates, terms, and
14 conditions set forth in the application, and authorizing the
15 electrical corporation to create a regulatory asset for the
16 difference between the revenues that would have been collected
17 under the previously applicable rate and the newly applicable
18 aluminum smelter rate in a manner consistent with the
19 requirements set forth in paragraph (g) of subdivision (4) of
20 subsection 2 of section 393.1525. Such order shall be effective
21 thirty days after its issuance.

22 4. An aluminum smelting facility shall only be eligible for
23 the aluminum smelter rate established under this section if it
24 maintains a number of full-time employees that equals not less
25 than one and one-half times its megawatt demand.

26 5. If an aluminum smelting facility becomes ineligible for
27 service using the aluminum smelter rate established under this
28 section, it shall be served at the rate that would otherwise be

1 applicable to a customer of its size and load characteristics.

2 6. Nothing in this section shall be construed as granting
3 the commission jurisdiction over any third party transmission
4 provider organized under chapter 394, or over any transmission or
5 wheeling contract to which such third party transmission provider
6 is a party, and the commission's approval of any aluminum smelter
7 rate or discount otherwise allowed under this section shall not
8 constitute or be deemed to be a filed rate under the filed rate
9 doctrine for purposes of any such third party transmission
10 contract.

11 7. This section shall expire on December 31, 2026.

12 393.1590. 1. For purposes of this section "electrical
13 corporation" shall mean the same as defined in section 386.020,
14 but shall not include an electrical corporation regulated under
15 chapters 386 and 393 but not subject to the commission's
16 jurisdiction over its rates, financing, accounting, or management
17 under subsection 2 of section 393.110.

18 2. An electrical corporation shall invest, in the aggregate
19 over the entire period covered, no less than two and one-half
20 percent of the annual revenue requirement used to establish the
21 electrical corporation's rates in effect on the effective date of
22 this section in utility-owned solar facilities located in
23 Missouri or in an adjacent state where such facilities are owned
24 by an electrical corporation operating in Missouri, whether
25 rooftop or ground-mounted, during the period between the
26 effective date of this section and December 31, 2026, provided,
27 that if recovery of the costs of such facilities would cause the
28 electrical corporation to exceed the one percent maximum average

1 retail rate increase limitation required by subdivision (1) of
2 subsection 2 of section 393.1030, that part of the recovery of
3 such costs that would exceed such one percent limitation shall be
4 deferred by the electrical corporation to a regulatory asset, to
5 which carrying costs at the electrical corporation's weighted
6 average cost of capital shall be added and recovered through
7 rates set under sections 393.1500 to 393.1575, section 393.150,
8 or through a rate adjustment mechanism under section 393.1030 as
9 soon as practicable.

10 3. An electrical corporation's decision to invest in
11 utility-owned solar facilities consistent with subsection 2 of
12 this section shall be deemed to be prudent. However, the
13 commission shall retain the authority to review the specific
14 costs incurred to construct and own the utility-owned solar
15 facilities in any proceeding in which a change in rates is
16 considered in order to ensure that rates are based only on
17 prudently incurred costs.

18 4. Nothing in this section shall preclude an electrical
19 corporation from recovering costs of investing in or purchasing
20 electricity from additional solar facilities beyond those
21 provided for under subsection 2 of this section.

22 5. This section shall expire on December 31, 2026.

23 393.1600. 1. Notwithstanding the provisions of subdivision
24 (1) of subsection 2 of section 393.1030 and section 393.1045 to
25 the contrary, an electrical corporation serving more than two
26 hundred thousand Missouri electric customers shall make solar
27 rebates available in the amounts specified in subsection 3 of
28 section 393.1030, except that new or expanded solar electric

1 systems up to a maximum of twenty-five kilowatts per system for
2 residential customers and up to one hundred fifty kilowatts per
3 system sited on non-residential customers' premises shall be
4 eligible for such rebates. Customers shall be eligible for
5 rebates on new or expanded systems for the increment of new or
6 extended capacity and not for capacity on which rebates have
7 previously been paid, up to the system kilowatt limits set forth
8 in this section. However, no such electrical corporation shall
9 be required to make total solar rebate payments from the
10 effective date of this section through June 30, 2020, that in the
11 aggregate exceed two and one-half percent of the annual revenue
12 requirement used to establish the electrical corporation's rates
13 in effect on the effective date of this section; provided
14 however, and subject to the two and one-half percent limitation
15 provided for in this section, that no such electrical corporation
16 shall be required to make total solar rebate payments for any
17 twelve-month period after the effective date of this section that
18 exceed one and one-fourth percent of the annual revenue
19 requirement used to establish the electrical corporation's rates
20 in effect on the effective date of this section. At its
21 election, the electrical corporation shall be permitted to
22 recover the cost of solar rebate payments it has made through
23 either base rates, whether set under sections 393.1500 to
24 393.1575 or under section 393.150, or through a rate adjustment
25 mechanism under section 393.1030 through which a surcharge is
26 imposed on customers' bills in addition to base rates, and shall,
27 also at its election, be permitted to defer and amortize the
28 recovery of such costs, including interest at the electrical

1 corporation's short-term borrowing rate, through either base
2 rates or a surcharge over a period of the electrical
3 corporation's choice not to exceed five years, provided that if
4 recovery of such costs in such manner and over such a time period
5 would cause the electrical corporation to exceed the one percent
6 maximum average retail rate increase limitation required by
7 subdivision (1) of subsection 2 of section 393.1030, that part of
8 recovery of such costs that would exceed such one percent
9 limitation shall be deferred by the electrical corporation to a
10 regulatory asset, to which carrying costs at the electrical
11 corporation's weighted average cost of capital shall be added and
12 recovered through rates set under sections 393.1500 to 393.1575,
13 section 393.150 or through a rate adjustment mechanism under
14 section 393.1030 as soon as practicable. For purposes of this
15 section, "electrical corporation" shall mean the same as defined
16 in section 386.020, but shall not include an electrical
17 corporation regulated under chapters 386 and 393 but not subject
18 to the commission's jurisdiction over its rates, financing,
19 accounting, or management under subsection 2 of section 393.110.

20 2. It is the intent of the general assembly that the solar
21 rebates referred to in this section shall become available
22 immediately upon the effective date of this section. The
23 commission shall have the authority to promulgate rules for the
24 implementation of this section, but only to the extent that such
25 rules are consistent with, and do not delay the implementation
26 of, the provisions of this section. Any rule or portion of a
27 rule, as that term is defined in section 536.010 that is created
28 under the authority delegated in this section shall become

1 effective only if it complies with and is subject to all of the
2 provisions of chapter 536, and, if applicable, section 536.028.
3 This section and chapter 536 are nonseverable and if any of the
4 powers vested with the general assembly pursuant to chapter 536,
5 to review, to delay the effective date, or to disapprove and
6 annul a rule are subsequently held unconstitutional, then the
7 grant of rulemaking authority and any rule proposed or adopted
8 after August 28, 2016, shall be invalid and void.

9 3. This section shall expire on December 31, 2026.

10 393.1610. 1. Subject to compliance with the requirements
11 of sections 393.1525 and 393.1530, as applicable, the commission
12 shall permit an electrical corporation to recover costs incurred
13 for projects to deploy electrical generation, distribution, or
14 transmission technology or equipment with which the electrical
15 corporation has little or no operational experience without
16 demonstrating that such technology or equipment represents the
17 least cost alternative, provided that any such project:

18 (1) Is designed to advance the electrical corporation's
19 operational knowledge about the impact on the electrical system
20 of deploying such technology or equipment or otherwise produces
21 beneficial knowledge or experience;

22 (2) Is executed in a prudent manner; and

23 (3) Increases the electrical corporation's rate base by no
24 more than one percent.

25 2. The requirements of section 393.170 shall not apply to
26 the construction by an electrical corporation of a renewable
27 energy resource that has a nameplate capacity of 1 megawatt or
28 less. For purposes of this section, "electrical corporation"

1 shall mean the same as defined in section 386.020, but shall not
2 include an electrical corporation regulated under chapters 386
3 and 393 but not subject to the commission's jurisdiction over its
4 rates, financing, accounting, or management under subsection 2 of
5 section 393.110.

6 3. This section shall expire on December 31, 2026.

7 393.1620. 1. For electrical corporations, programs that
8 utilize combined heat and power technology to generate
9 electricity from waste heat and assist customers with reducing
10 the amount of electricity delivered by such electrical
11 corporation shall qualify as demand-side programs to be offered
12 by utilities under section 393.1075, notwithstanding that they
13 may not modify consumption of energy on the customer's side of
14 the meter. For purposes of this section, "electrical
15 corporation" shall mean the same as defined in section 386.020,
16 but shall not include an electrical corporation regulated under
17 chapters 386 and 393 but not subject to the commission's
18 jurisdiction over its rates, financing, accounting, or management
19 under subsection 2 of section 393.110.

20 2. This section shall expire on December 31, 2026.

21 620.3150. 1. The comprehensive state energy plan developed
22 by the division of energy shall be reviewed by the division by
23 January 1, 2018, and biennially thereafter, and updated if
24 necessary, in accordance with the provisions of this section.

25 2. The state's comprehensive state energy plan shall be
26 reviewed to ensure that it:

27 (1) Is consistent with Article I, Section 2 of the Missouri
28 Constitution;

1 (2) Encourages private investment that will provide
2 customers with better energy supply and more conservation
3 options;

4 (3) Develops free market strategies to attract private
5 capital investment;

6 (4) Identifies and values transportation alternatives;

7 (5) Creates an uncumbersome regulatory environment that
8 allows the state's energy utilities to chart a vibrant changing
9 future by operating with greater efficiency and reliability at a
10 low cost to consumers;

11 (6) Supports public and private efforts to foster a supply
12 of energy to consumers that is abundant, reliable, and cost
13 efficient; and

14 (7) Monitors areas of potential growth or development,
15 including forecasts of five and ten years for energy demand and
16 supply, infrastructure demands, and identification of additional
17 costs, risks, benefits, uncertainties, and market potential of
18 energy supply resource alternatives.

19 3. The division of energy, either directly or through
20 contracting with a Missouri-based nonprofit whose staff and
21 organization have the capacity and capability to adequately meet
22 the aforementioned goals, shall use a diverse stakeholder system
23 through both online engagement and several in-person meetings
24 throughout the state to conduct the review.

25 4. A report shall be issued by the division of energy,
26 along with the review required under this section, that shall
27 suggest policy changes for the state that:

28 (1) Provide improved reliability of the energy systems

1 within the state;

2 (2) Insulate customers from volatility in market prices;

3 (3) Reduce the overall cost of energy in the state;

4 (4) Reasonably addresses public health and environmental
5 impacts;

6 (5) Identify and analyze emerging trends in supply, price,
7 demand, and technology, as well as energy policies and programs,
8 and their impact on achieving the state's comprehensive state
9 energy plan.

10 Section B. Because immediate action is necessary to sustain
11 Missouri's aluminum smelting industry, which is a vital part of
12 Missouri's economy, and to continue providing hundreds of jobs to
13 hardworking Missourians in an area where job availability is
14 otherwise limited, section A of this act is deemed necessary for
15 the immediate preservation of the public health, welfare, peace
16 and safety, and is hereby declared to be an emergency act within
17 the meaning of the constitution, and section A of this act shall
18 be in full force and effect upon its passage and approval.

19 Section C. Notwithstanding the provisions of section 1.140
20 to the contrary, the provisions of sections 393.1500 to 393.1620
21 shall be nonseverable, and if any provision is for any reason
22 held to be invalid, such decision shall invalidate all of the
23 remaining provisions of sections 393.1500 to 393.1620.