

SENATE SUBSTITUTE  
FOR  
SENATE COMMITTEE SUBSTITUTE  
FOR  
SENATE BILL NO. 190

AN ACT

To repeal sections 386.266, 386.390, 393.170, 393.1025, 393.1030, and 393.1075, RSMo, and to enact in lieu thereof sixteen new sections relating to ratemaking for public utilities, with an existing penalty provision.

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

1           Section A. Sections 386.266, 386.390, 393.170, 393.1025,  
2           393.1030, and 393.1075, RSMo, are repealed and sixteen new  
3           sections enacted in lieu thereof, to be known as sections  
4           386.266, 386.390, 393.170, 393.1025, 393.1030, 393.1075,  
5           393.1100, 393.1105, 393.1275, 393.1400, 393.1410, 393.1600,  
6           393.1640, 393.1650, 393.1655, and 393.1660, to read as follows:

7           386.266. 1. (1) Subject to the requirements of this  
8           section, any electrical corporation may make an application to  
9           the commission to approve rate schedules authorizing an interim  
10          energy charge, or periodic rate adjustments outside of general  
11          rate proceedings to reflect increases and decreases in its  
12          prudently incurred fuel and purchased-power costs, including  
13          transportation. Such rate schedules shall also include and  
14          provide for adjustments reflecting all prudently incurred  
15          transmission charges not included in the costs covered by the  
16          immediately preceding sentence, and all transmission revenues,

1 paid to or received from any transmission service provider. The  
2 commission may, in accordance with existing law, include in such  
3 rate schedules features designed to provide the electrical  
4 corporation with incentives to improve the efficiency and  
5 cost-effectiveness of its fuel and purchased-power procurement  
6 activities.

7 (2) Electrical corporations may file with the commission to  
8 amend existing rate schedules that provide for recovery of fuel  
9 and purchased-power costs, including transportation, and may do  
10 so without the necessity of filing a general rate proceeding,  
11 with such amended rate schedules to include transmission charges  
12 and revenues as provided for in subdivision (1) of this  
13 subsection. Transmission charges and revenues paid to or  
14 received from any transmission service provider on or after the  
15 effective date of subdivision (1) of this subsection, to the  
16 extent they are not already reflected in base rates, shall be  
17 recovered beginning when the first rate adjustment is made that  
18 covers the accounting period that coincides with the effective  
19 date of subdivision (1) of this subsection.

20 2. Subject to the requirements of this section, any  
21 electrical, gas, or water corporation may make an application to  
22 the commission to approve rate schedules authorizing periodic  
23 rate adjustments outside of general rate proceedings to reflect  
24 increases and decreases in its prudently incurred costs, whether  
25 capital or expense, to comply with any federal, state, or local  
26 environmental law, regulation, or rule. Any rate adjustment made  
27 under such rate schedules shall not exceed an annual amount equal  
28 to two and one-half percent of the electrical, gas, or water

1 corporation's Missouri gross jurisdictional revenues, excluding  
2 gross receipts tax, sales tax and other similar pass-through  
3 taxes not included in tariffed rates, for regulated services as  
4 established in the utility's most recent general rate case or  
5 complaint proceeding. In addition to the rate adjustment, the  
6 electrical, gas, or water corporation shall be permitted to  
7 collect any applicable gross receipts tax, sales tax, or other  
8 similar pass-through taxes, and such taxes shall not be counted  
9 against the two and one-half percent rate adjustment cap. Any  
10 costs not recovered as a result of the annual two and one-half  
11 percent limitation on rate adjustments may be deferred, at a  
12 carrying cost each month equal to the utilities net of tax cost  
13 of capital, for recovery in a subsequent year or in the  
14 corporation's next general rate case or complaint proceeding.

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

21 4. The commission shall have the power to approve, modify,  
22 or reject adjustment mechanisms submitted under subsections 1 to  
23 3 of this section only after providing the opportunity for a full  
24 hearing in a general rate proceeding, including a general rate  
25 proceeding initiated by complaint. The commission may approve  
26 such rate schedules after considering all relevant factors which  
27 may affect the costs or overall rates and charges of the  
28 corporation, provided that it finds that the adjustment mechanism

1 set forth in the schedules:

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

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

8 (3) In the case of an adjustment mechanism submitted under  
9 subsections 1 and 2 of this section, includes provisions  
10 requiring that the utility file a general rate case with the  
11 effective date of new rates to be no later than four years after  
12 the effective date of the commission order implementing the  
13 adjustment mechanism. However, with respect to each mechanism,  
14 the four-year period shall not include any periods in which the  
15 utility is prohibited from collecting any charges under the  
16 adjustment mechanism, or any period for which charges collected  
17 under the adjustment mechanism must be fully refunded. In the  
18 event a court determines that the adjustment mechanism is  
19 unlawful and all moneys collected thereunder are fully refunded,  
20 the utility shall be relieved of any obligation under that  
21 adjustment mechanism to file a rate case;

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

28 5. Once such an adjustment mechanism is approved by the

1 commission under this section, it shall remain in effect until  
2 such time as the commission authorizes the modification,  
3 extension, or discontinuance of the mechanism in a general rate  
4 case or complaint proceeding.

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

8 7. The commission may take into account any change in  
9 business risk to the corporation resulting from implementation of  
10 the adjustment mechanism in setting the corporation's allowed  
11 return in any rate proceeding, in addition to any other changes  
12 in business risk experienced by the corporation.

13 8. In the event the commission lawfully approves an  
14 incentive- or performance-based plan, such plan shall be binding  
15 on the commission for the entire term of the plan. This  
16 subsection shall not be construed to authorize or prohibit any  
17 incentive- or performance-based plan.

18 9. Prior to August 28, 2005, the commission shall have the  
19 authority to promulgate rules under the provisions of chapter 536  
20 as it deems necessary, to govern the structure, content and  
21 operation of such rate adjustments, and the procedure for the  
22 submission, frequency, examination, hearing and approval of such  
23 rate adjustments. Such rules shall be promulgated no later than  
24 one hundred fifty days after the initiation of such rulemaking  
25 proceeding. Any electrical, gas, or water corporation may apply  
26 for any adjustment mechanism under this section whether or not  
27 the commission has promulgated any such rules.

28 10. Nothing contained in this section shall be construed as

1 affecting any existing adjustment mechanism, rate schedule,  
2 tariff, incentive plan, or other ratemaking mechanism currently  
3 approved and in effect.

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

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

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

17 386.390. 1. Complaint may be made by the commission of its  
18 own motion, or by the public counsel or any corporation or  
19 person, chamber of commerce, board of trade, or any civic,  
20 commercial, mercantile, traffic, agricultural or manufacturing  
21 association or organization, or any body politic or municipal  
22 corporation, by petition or complaint in writing, setting forth  
23 any act or thing done or omitted to be done by any corporation,  
24 person or public utility[, including any rule, regulation or  
25 charge heretofore established or fixed by or for any corporation,  
26 person or public utility,] in violation, or claimed to be in  
27 violation, of any provision of law subject to the commission's  
28 authority, [or] of any rule promulgated by the commission, or of

1 any utility tariff, or order or decision of the commission;  
2 provided, that no complaint shall be entertained by the  
3 commission, except upon its own motion, as to the reasonableness  
4 of any rates or charges of any gas, electrical, water, sewer, or  
5 telephone corporation, unless the same be signed by the public  
6 counsel or the mayor or the president or chairman of the board of  
7 aldermen or a majority of the council, commission or other  
8 legislative body of any city, town, village or county, within  
9 which the alleged violation occurred, or not less than  
10 twenty-five consumers or purchasers, or prospective consumers or  
11 purchasers, of such gas, electricity, water, sewer or telephone  
12 service.

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

20 3. The commission shall not be required to dismiss any  
21 complaint because of the absence of direct damage to the  
22 complainant. Upon the filing of a complaint, the commission  
23 shall cause a copy thereof to be served upon the public utility,  
24 corporation or person complained of.

25 4. Service in all hearings, investigations and proceedings  
26 pending before the commission may be made upon any person upon  
27 whom summons may be served in accordance with the provisions of  
28 the code of civil procedure of this state, and may be made

1 personally or by mailing in a sealed envelope with postage  
2 prepaid.

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

8 393.170. 1. No gas corporation, electrical corporation,  
9 water corporation or sewer corporation shall begin construction  
10 of a gas plant, electric plant, water system or sewer system,  
11 other than a renewable energy generation unit that has a capacity  
12 of one megawatt or less, without first having obtained the  
13 permission and approval of the commission.

14 2. No such corporation shall exercise any right or  
15 privilege under any franchise hereafter granted, or under any  
16 franchise heretofore granted but not heretofore actually  
17 exercised, or the exercise of which shall have been suspended for  
18 more than one year, without first having obtained the permission  
19 and approval of the commission. Before such certificate shall be  
20 issued a certified copy of the charter of such corporation shall  
21 be filed in the office of the commission, together with a  
22 verified statement of the president and secretary of the  
23 corporation, showing that it has received the required consent of  
24 the proper municipal authorities.

25 3. The commission shall have the power to grant the  
26 permission and approval herein specified whenever it shall after  
27 due hearing determine that such construction or such exercise of  
28 the right, privilege or franchise is necessary or convenient for

1 the public service. The commission may by its order impose such  
2 condition or conditions as it may deem reasonable and necessary.  
3 Unless exercised within a period of two years from the grant  
4 thereof, authority conferred by such certificate of convenience  
5 and necessity issued by the commission shall be null and void.

6 393.1025. As used in sections 393.1020 to 393.1030, the  
7 following terms mean:

8 (1) "Commission", the public service commission;

9 (2) "Department", the department of natural resources;

10 (3) "Electric utility", any electrical corporation as  
11 defined by section 386.020;

12 (4) "Renewable energy credit" or "REC", a tradeable  
13 certificate of proof that one megawatt-hour of electricity has  
14 been generated from renewable energy sources; and

15 (5) "Renewable energy resources", electric energy produced  
16 from wind, solar thermal sources, photovoltaic cells and panels,  
17 dedicated crops grown for energy production, cellulosic  
18 agricultural residues, plant residues, processed solid biomass  
19 engineered fiber fuel as defined in section 393.1600, waste that  
20 can be burned as fuel to produce electric energy, methane from  
21 landfills, from agricultural operations, or from wastewater  
22 treatment, thermal depolymerization or pyrolysis for converting  
23 waste material to energy, clean and untreated wood such as  
24 pallets, hydropower (not including pumped storage) that does not  
25 require a new diversion or impoundment of water and that has a  
26 nameplate rating of ten megawatts or less, fuel cells using  
27 hydrogen produced by one of the above-named renewable energy  
28 sources, and other sources of energy not including nuclear that

1 become available after November 4, 2008, and are certified as  
2 renewable by rule by the department.

3 393.1030. 1. The commission shall, in consultation with  
4 the department, prescribe by rule a portfolio requirement for all  
5 electric utilities to generate or purchase electricity generated  
6 from renewable energy resources. Such portfolio requirement  
7 shall provide that electricity from renewable energy resources  
8 shall constitute the following portions of each electric  
9 utility's sales:

10 (1) No less than two percent for calendar years 2011  
11 through 2013;

12 (2) No less than five percent for calendar years 2014  
13 through 2017;

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

16 (4) No less than fifteen percent in each calendar year  
17 beginning in 2021.

18  
19 At least two percent of each portfolio requirement shall be  
20 derived from solar energy. The portfolio requirements shall  
21 apply to all power sold to Missouri consumers whether such power  
22 is self-generated or purchased from another source in or outside  
23 of this state. A utility may comply with the standard in whole  
24 or in part by purchasing RECs. Each kilowatt-hour of eligible  
25 energy generated in Missouri shall count as 1.25 kilowatt-hours  
26 for purposes of compliance. Each kilowatt-hour of eligible  
27 energy generated from processed solid biomass engineered fiber  
28 fuel, as defined in section 393.1600, shall count as 1.50

1 kilowatt-hours for purposes of compliance.

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

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

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

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

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

27 (4) Provision for recovery outside the context of a regular  
28 rate case of prudently incurred costs and the pass-through of

1 benefits to customers of any savings achieved by an electrical  
2 corporation in meeting the requirements of this section.

3 3. As provided for in this section, except for those  
4 electrical corporations that qualify for an exemption under  
5 section 393.1050, each electric utility shall make available to  
6 its retail customers a solar rebate for new or expanded solar  
7 electric systems sited on customers' premises, up to a maximum of  
8 twenty-five kilowatts per system, measured in direct current that  
9 were confirmed by the electric utility to have become operational  
10 in compliance with the provisions of section 386.890. The solar  
11 rebates shall be two dollars per watt for systems becoming  
12 operational on or before June 30, 2014; one dollar and fifty  
13 cents per watt for systems becoming operational between July 1,  
14 2014, and June 30, 2015; one dollar per watt for systems becoming  
15 operational between July 1, 2015, and June 30, 2016; fifty cents  
16 per watt for systems becoming operational between July 1, 2016,  
17 and June 30, 2017; fifty cents per watt for systems becoming  
18 operational between July 1, 2017, and June 30, 2019; twenty-five  
19 cents per watt for systems becoming operational between July 1,  
20 2019, and June 30, 2020; and zero cents per watt for systems  
21 becoming operational after June 30, 2020. An electric utility  
22 may, through its tariffs, require applications for rebates to be  
23 submitted up to one hundred eighty-two days prior to the June  
24 thirtieth operational date. Nothing in this section shall  
25 prevent an electrical corporation from offering rebates after  
26 July 1, 2020, through an approved tariff. If the electric  
27 utility determines the maximum average retail rate increase  
28 provided for in subdivision (1) of subsection 2 of this section

1 will be reached in any calendar year, the electric utility shall  
2 be entitled to cease paying rebates to the extent necessary to  
3 avoid exceeding the maximum average retail rate increase if the  
4 electrical corporation files with the commission to suspend its  
5 rebate tariff for the remainder of that calendar year at least  
6 sixty days prior to the change taking effect. The filing with  
7 the commission to suspend the electrical corporation's rebate  
8 tariff shall include the calculation reflecting that the maximum  
9 average retail rate increase will be reached and supporting  
10 documentation reflecting that the maximum average retail rate  
11 increase will be reached. The commission shall rule on the  
12 suspension filing within sixty days of the date it is filed. If  
13 the commission determines that the maximum average retail rate  
14 increase will be reached, the commission shall approve the tariff  
15 suspension. The electric utility shall continue to process and  
16 pay applicable solar rebates until a final commission ruling;  
17 however, if the continued payment causes the electric utility to  
18 pay rebates that cause it to exceed the maximum average retail  
19 rate increase, the expenditures shall be considered prudently  
20 incurred costs as contemplated by subdivision (4) of subsection 2  
21 of this section and shall be recoverable as such by the electric  
22 utility. As a condition of receiving a rebate, customers shall  
23 transfer to the electric utility all right, title, and interest  
24 in and to the renewable energy credits associated with the new or  
25 expanded solar electric system that qualified the customer for  
26 the solar rebate for a period of ten years from the date the  
27 electric utility confirmed that the solar electric system was  
28 installed and operational.

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

14           5. In carrying out the provisions of this section, the  
15 commission and the department shall include methane generated  
16 from the anaerobic digestion of farm animal waste and thermal  
17 depolymerization or pyrolysis for converting waste material to  
18 energy as renewable energy resources for purposes of this  
19 section.

20           6. The commission shall have the authority to promulgate  
21 rules for the implementation of this section, but only to the  
22 extent such rules are consistent with, and do not delay the  
23 implementation of, the provisions of this section. Any rule or  
24 portion of a rule, as that term is defined in section 536.010,  
25 that is created under the authority delegated in this section  
26 shall become effective only if it complies with and is subject to  
27 all of the provisions of chapter 536 and, if applicable, section  
28 536.028. This section and chapter 536 are nonseverable and if

1 any of the powers vested with the general assembly pursuant to  
2 chapter 536 to review, to delay the effective date, or to  
3 disapprove and annul a rule are subsequently held  
4 unconstitutional, then the grant of rulemaking authority and any  
5 rule proposed or adopted after August 28, 2013, shall be invalid  
6 and void.

7 393.1075. 1. This section shall be known as the "Missouri  
8 Energy Efficiency Investment Act".

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

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

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

13 (3) "Demand-side program", any program conducted by the  
14 utility to ~~[modify]~~ reduce the ~~[net consumption]~~ amount of  
15 electricity ~~[on the]~~ delivered to retail ~~[customer's side of]~~  
16 customers by the [electric meter] electrical corporation,  
17 including but not limited to energy efficiency measures, load  
18 management, demand response, and interruptible or curtailable  
19 load, and the utilization of combined heat and power technology;

20 (4) "Electrical corporation", the same as defined in  
21 section 386.020, but shall not include an electrical corporation  
22 as defined and set forth in subsection 2 of section 393.110;

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

25 ~~[(5)]~~ (6) "Interruptible or curtailable rate", a rate under  
26 which a customer receives a reduced charge in exchange for  
27 agreeing to allow the utility to withdraw the supply of  
28 electricity under certain specified conditions;

1            [(6)] (7) "Total resource cost test", a test that compares  
2 the sum of avoided utility costs and avoided probable  
3 environmental compliance costs to the sum of all incremental  
4 costs of end-use measures that are implemented due to the  
5 program, as defined by 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 This subsection only applies to customers meeting one or more of

1 the following criteria:

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

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

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

13  
14 A customer meeting the criteria specified in subdivision (1) of  
15 this subsection may notify the electrical corporation in writing  
16 that the customer elects not to participate in demand-side  
17 measures offered by [an] the electrical corporation as to some or  
18 all of the customer's electric service accounts. A customer not  
19 meeting the criteria specified in subdivision (1) of this  
20 subsection and meeting the criteria specified in subdivisions (2)  
21 or (3) of this subsection may notify the electrical corporation  
22 in writing that the customer elects not to participate in demand-  
23 side programs offered by the electrical corporation as to all of  
24 the customer's electric service accounts. Starting with the  
25 first day of the billing cycle month occurring after the date it  
26 is determined the customer meets one of the criteria specified in  
27 subdivisions (1), (2), or (3) of this subsection, [none of the  
28 costs of] charges arising from demand-side measures of [an

1 electric] the electrical corporation offered under this section  
2 or by any other authority[, and no other charges implemented in  
3 accordance with this section,] shall not be [assigned to any  
4 account of any customer] included on the bill for any account of  
5 the customer specified in such notice, including any bill for  
6 such an account issued to its affiliates and subsidiaries[,  
7 meeting one or more of the following 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. Eligible customers that have [notified the electrical  
20 corporation that they do not wish to participate in demand-side  
21 programs] provided notice under subsection 7 of this section  
22 shall not subsequently be eligible to participate in demand-side  
23 programs [except under guidelines established by the commission  
24 in rulemaking] for the accounts covered by such notice unless the  
25 customer provides an additional notice, in writing, rescinding  
26 its previous notice.

27 9. Customers who participate in demand-side programs  
28 initiated after August 1, 2009, shall be required to participate

1 in program funding for a period of time to be established by the  
2 commission in rulemaking.

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

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

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

1 programs, and the net economic benefits of the demand-side  
2 programs.

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

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

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

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

23 (4) The provisions of this subsection shall not apply to  
24 any low-income customer who would otherwise be eligible to  
25 participate in a demand-side program that is offered by an  
26 electrical corporation to low-income customers.] Any demand-side  
27 program that provides for operation or control by the electrical  
28 corporation of a customer's load on the customer's side of the

1 meter shall require that the electrical corporation obtain the  
2 customer's consent in advance of such operation or control. The  
3 commission shall implement rules to govern the requirements for  
4 obtaining such customer consent.

5 15. The commission shall develop rules that provide for  
6 disclosure of participants in all demand-side programs offered by  
7 electrical corporations under this section when such programs  
8 provide monetary incentives to the customer. The disclosure  
9 required by this subsection may include, but not be limited to,  
10 the following: the name of the participant, or the names of the  
11 [principles] principals if for a company, the property address,  
12 and the amount of the monetary incentive received.

13 393.1100. Each electrical corporation and gas corporation  
14 shall allow residential customers the option of refusing the  
15 installation of a remotely read two-way communication enabled  
16 meter or of requesting the removal of a previously installed  
17 remotely read two-way communication enabled meter by paying the  
18 corporation's cost of removing the two-way communication enabled  
19 meter and replacing it. Any residential customer whose usage  
20 shall be determined manually or through other meter reading  
21 technologies shall be assessed an additional charge for such  
22 meter reading, with the charge to be based on the electrical or  
23 gas corporation's incremental cost to read such meter using this  
24 alternative approach as compared to the costs to remotely read a  
25 two-way communication enabled meter.

26 393.1105. In order to understand and consider approaches to  
27 address the risks associated with man-made electromagnetic pulse  
28 attacks created by nuclear detonations or geomagnetic

1 disturbances caused by solar storms to large transformers,  
2 generators, and substations, the commission shall establish a  
3 working docket to discuss these issues, receive relevant  
4 information from national grid organizations and electrical  
5 corporations, assess benefits and costs of technology options,  
6 and issue a report to the general assembly with its analysis by  
7 December 31, 2019.

8 393.1275. 1. The provisions of section 386.020 defining  
9 words, phrases, and terms shall apply to and determine the  
10 meaning of all such words, phrases, or terms as used in this  
11 section, except that "electrical corporation" shall not include  
12 an electrical corporation as defined and set forth in subsection  
13 2 of section 393.110.

14 2. If an electrical corporation elects to subject itself to  
15 this section, the electrical corporation shall defer to a  
16 regulatory asset or liability account any difference in the  
17 uncapitalized state or local property taxes actually incurred,  
18 and those recorded on the electrical corporation's books for the  
19 twelve months ending on the date through which the commission  
20 ordered rate base additions to be accounted for in the electrical  
21 corporation's most recently completed general rate proceeding.  
22 In the absence of a commission order issued within the three-year  
23 period prior to the effective date of this section that specifies  
24 the date through which rate base additions are to be accounted  
25 for, such date as reflected in any jointly proposed procedural  
26 schedule submitted by the parties in the applicable general rate  
27 proceeding, or as otherwise agreed to by such parties, shall be  
28 used. The regulatory asset or liability account balances shall

1 be included in the retail revenue requirement used to set rates  
2 through an amortization over a reasonable period of time in such  
3 corporation's subsequent general rate proceedings, without any  
4 offset. The commission shall also adjust the rate base used to  
5 establish the retail revenue requirement of such corporation to  
6 reflect the unamortized regulatory asset or liability account  
7 balances in such general rate proceedings.

8 3. On and after the effective date of rates in an  
9 electrical corporation's next general rate proceeding concluding  
10 after the effective date of this section, an electrical  
11 corporation that elects to subject itself to this section shall  
12 defer to a regulatory asset or liability account any difference  
13 in the prudently incurred operations and maintenance expense  
14 actually incurred to protect the reliability and security of  
15 systems, software, equipment, and facilities connected to or  
16 controlling the electric system against physical or cyber-  
17 security threats, including but not limited to generating  
18 stations, substations, and control centers, and the operations  
19 and maintenance expense for such protection that was recorded on  
20 the electrical corporation's books for the twelve months ending  
21 on the date through which the commission ordered rate base  
22 additions to be accounted for in the electrical corporation's  
23 most recently completed general rate proceeding. In the absence  
24 of a commission order issued within the three-year period prior  
25 to the effective date of this section that specifies the date  
26 through which rate base additions are to be accounted for, such  
27 date as reflected in any jointly proposed procedural schedule  
28 submitted by the parties in the applicable general rate

1 proceeding, or as otherwise agreed to by such parties, shall be  
2 used. The regulatory asset or liability account balances shall  
3 be included in the retail revenue requirement used to set rates  
4 through an amortization over a reasonable period of time in such  
5 corporation's subsequent general rate proceedings, without any  
6 offset. The commission shall also adjust the rate base used to  
7 establish the retail revenue requirement of such corporation to  
8 reflect the unamortized regulatory asset or liability account  
9 balances in such general rate proceedings.

10 4. This section shall not apply to any electrical  
11 corporation that has not filed a notice with the commission of  
12 the electrical corporation's election to make the deferrals for  
13 which this section provides.

14 393.1400. 1. This section and section 393.1640 shall be  
15 known and may be cited as the "Missouri Economic Development and  
16 Infrastructure Investment Act".

17 2. For purposes of this section and section 393.1640, the  
18 following terms shall mean:

19 (1) "Commission", the public service commission;

20 (2) "Electrical corporation", the same as defined in  
21 section 386.020, but shall not include an electrical corporation  
22 as defined and set forth in subsection 2 of section 393.110;

23 (3) "Qualifying electric plant", shall consist of all rate  
24 base additions except those rate base additions that increase  
25 revenues by allowing service to new customer premises;

26 (4) "Relevant period", a period starting on the date  
27 through which the commission ordered rate base additions to be  
28 accounted for in developing an electrical corporation's retail

1 revenue requirement in a general rate proceeding, and ending on  
2 the date through which the commission ordered rate base additions  
3 to be accounted for in the electrical corporation's subsequent  
4 general rate proceeding, with the first relevant period starting  
5 on the effective date of this section. In the absence of a  
6 commission order issued within the three-year period prior to the  
7 effective date of this section that specifies the date through  
8 which rate base additions are to be accounted for, such date as  
9 reflected in any jointly proposed procedural schedule submitted  
10 by the parties in the applicable general rate proceeding, or as  
11 otherwise agreed to by such parties, shall be used.

12 3. (1) Notwithstanding any provisions of sections 393.130,  
13 393.140, 393.150, 393.260, and 393.270 to the contrary,  
14 electrical corporations shall defer depreciation expense and  
15 return, calculated as provided for in this section, associated  
16 with all of the projects that constitute qualifying electric  
17 plant placed in service during each relevant period. The amounts  
18 so deferred shall be recorded to a separate regulatory asset  
19 account, and the balance in the regulatory asset account for the  
20 relevant period shall be included in the electrical corporation's  
21 rate base in each of the electrical corporation's general rate  
22 proceedings without any offset, reduction, or adjustment based  
23 upon consideration of any other factor, other than as provided  
24 for in subdivision (2) of this subsection and as limited by  
25 subsection 7 of this section. The expiration of this section  
26 shall not affect the continued inclusion in rate base and  
27 amortization after such expiration or determination of regulatory  
28 asset balances that arose under this section prior to such

1 expiration or determination.

2 (2) The amounts deferred to regulatory asset accounts under  
3 this section shall be subject to adjustment to reflect any  
4 prudence disallowances ordered by the commission in the general  
5 rate proceeding in which the qualifying electric plant for which  
6 deferrals were recorded is first included in its rate base.

7 (3) The regulatory assets created under this section shall  
8 include carrying costs at the electrical corporation's weighted  
9 average cost of capital, plus applicable federal, state, and  
10 local income or excise taxes, from the electrical corporation's  
11 most recently completed general rate proceeding concluded prior  
12 to the relevant period, and shall be amortized and recovered in  
13 rates, subject to the limitations of subsection 7 of this  
14 section, beginning with the effective date of rates in the  
15 general rate proceeding where the regulatory asset account  
16 balance is first included in its rate base, over twenty years.

17 In the absence of a commission order issued within the three-year  
18 period prior to the effective date of this section that specifies  
19 the parameters necessary to determine the weighted average cost  
20 of capital, the weighted average cost of capital shall be  
21 determined using the following parameters: the electrical  
22 corporation's actual capital structure, cost of debt, and cost of  
23 preferred stock as of December 31, 2016, together with a cost of  
24 common equity of nine and one-half percent.

25 4. For purposes of calculating deferred depreciation  
26 expense and return under this section:

27 (1) Deferred depreciation expense shall equal the original  
28 cost of each project included in the qualifying electric plant

1 placed in service during the relevant period less retirements of  
2 plant replaced by such qualifying electric plant, multiplied by  
3 the depreciation rate applicable to qualifying projects,  
4 calculated using the depreciation rates last-approved by the  
5 commission as of the time the deferred depreciation expense is  
6 being calculated;

7 (2) Deferred return shall equal the change in plant-related  
8 rate base during the relevant period multiplied by the electrical  
9 corporation's weighted average cost of capital used to determine  
10 the electrical corporation's retail revenue requirement in the  
11 electrical corporation's most recently completed general rate  
12 proceeding concluded prior to the relevant period, plus  
13 applicable federal, state, and local income or excise taxes. In  
14 the absence of a commission order issued within the three-year  
15 period prior to the effective date of this section that specifies  
16 the parameters necessary to determine the weighted average cost  
17 of capital, the weighted average cost of capital shall be  
18 determined using the following parameters: the electrical  
19 corporation's actual capital structure, cost of debt, and cost of  
20 preferred stock as of December 31, 2016, together with a cost of  
21 common equity of nine and one-half percent. In the absence of a  
22 commission order issued within the three-year period prior to the  
23 effective date of this section that specifies the date through  
24 which rate base additions are to be accounted for, such date as  
25 reflected in any jointly proposed procedural schedule submitted  
26 by the parties in the applicable general rate proceeding, or as  
27 otherwise agreed to by such parties, shall be used. The change  
28 in plant-related rate base during the relevant period shall equal

1 the sum of the original cost of all of the projects included in  
2 the qualifying electric plant placed in service during the  
3 relevant period less accumulated depreciation on such plant; and  
4 less the marginal increase in accumulated deferred income tax  
5 assets and liabilities, including deferred tax assets from net  
6 operating losses, attributable to such plant in the aggregate;  
7 and less the change in accumulated depreciation, excluding  
8 retirements, and the change in plant-related accumulated deferred  
9 income tax assets and liabilities, including deferred tax assets  
10 from net operating losses, attributable to such plant in the  
11 aggregate recorded during the relevant period arising from assets  
12 that were reflected in the electrical corporation's regulated  
13 rate base before the beginning of the relevant period.

14 (3) The electrical corporation shall perform the  
15 calculation of deferred depreciation and return under this  
16 subsection for all of the projects included in the qualifying  
17 electric plant placed in service during the relevant period and  
18 shall defer the calculated amounts monthly, with the qualifying  
19 projects to be deemed to have been placed in service on the  
20 fifteenth day of the month in which they were placed in service.

21 5. Depreciation expense and return from the end of any  
22 relevant period to the effective date of rates in the general  
23 rate proceeding where deferrals related to qualifying electric  
24 plant placed in service during that general rate proceeding are  
25 included in the electrical corporation's rate base, shall also be  
26 deferred on qualifying electric plant placed in service during  
27 that relevant period. The depreciation expense and return  
28 deferred under this subsection shall also be recorded to the

1 regulatory asset account that will be included in the electrical  
2 corporation's rate base in the electrical corporation's  
3 subsequent general rate proceeding, together with deferrals  
4 arising under subsection 3 of this section of depreciation  
5 expense and return for qualifying electric plant placed in  
6 service during the relevant period applicable to the electrical  
7 corporation's general rate proceeding.

8 6. In each general rate proceeding, the retail revenue  
9 requirement resulting from the inclusion of sums deferred to a  
10 regulatory asset account authorized under this section in rate  
11 base and the amortization of such a regulatory asset shall be  
12 allocated to each rate class in the same manner as the remainder  
13 of the change in the retail revenue requirement is allocated.

14 7. Notwithstanding the foregoing provisions of this  
15 section, the cumulative incremental increase in the electrical  
16 corporation's retail revenue requirement arising from incremental  
17 investments and regulatory assets authorized by this section  
18 shall not exceed the maximum retail revenue requirement impact.  
19 The "maximum retail revenue requirement impact" shall be  
20 determined in each general rate proceeding by multiplying one-  
21 tenth of one percent by the number of completed months between  
22 the date through which the commission ordered rate base additions  
23 to be accounted for in the electrical corporation's most recently  
24 completed general rate proceeding before the effective date of  
25 this section and the date through which the commission ordered  
26 rate base additions to be accounted for in each general rate  
27 proceeding when the maximum retail revenue requirement impact is  
28 determined. In the absence of a commission order issued within

1 the three-year period prior to the effective date of this section  
2 that specifies the date through which rate base additions are to  
3 be accounted for, such date as reflected in any jointly proposed  
4 procedural schedule submitted by the parties in the applicable  
5 general rate proceeding, or as otherwise agreed to by such  
6 parties, shall be used. For purposes of this subsection,  
7 "incremental investments" authorized by this section shall be  
8 equal to the cumulative gross plant additions since the effective  
9 date of this section that exceed the adjusted average gross plant  
10 additions. Such "adjusted average gross plant additions" shall  
11 be determined by dividing the average gross plant additions  
12 reported in the electrical corporation's published financial  
13 statements for calendar years 2014, 2015, and 2016 by twelve and  
14 then multiplying that quotient by the number of completed months  
15 between the date through which the commission ordered rate base  
16 additions to be accounted for in the electrical corporation's  
17 most recently completed general rate proceeding before the  
18 effective date of this section and the date through which the  
19 commission ordered rate base to be accounted for in each general  
20 rate proceeding when the maximum retail revenue requirement  
21 impact is determined. In the absence of a commission order  
22 issued within the three-year period prior to the effective date  
23 of this section that specifies the date through which rate base  
24 additions are to be accounted for, such date as reflected in any  
25 jointly proposed procedural schedule submitted by the parties in  
26 the applicable general rate proceeding, or as otherwise agreed to  
27 by such parties, shall be used. The incremental increase in the  
28 electrical corporation's retail revenue requirement arising from

1 incremental investments and the regulatory assets authorized by  
2 this section shall equal the sum of the total return on and  
3 amortization of the regulatory assets authorized by this section,  
4 and the depreciation and return on the incremental investments.  
5 If the incremental increase in the electrical corporation's  
6 retail revenue requirement arising from incremental investments  
7 and the regulatory assets authorized by this section in any  
8 general rate proceeding would otherwise exceed the maximum retail  
9 revenue requirement impact in that general rate proceeding, the  
10 regulatory asset to be included in rate base in that general rate  
11 proceeding shall not include any deferred depreciation or  
12 deferred return that would otherwise have been authorized by this  
13 section on the gross plant additions to be added to rate base in  
14 that general rate proceeding that caused such incremental  
15 increase to exceed the maximum retail revenue requirement impact.  
16 For purposes of the immediately preceding sentence, gross plant  
17 additions shall be deemed to occur in chronological order by the  
18 additions' in-service dates on the electrical corporation's  
19 books.

20 8. Beginning February twenty-eighth of the year after the  
21 year in which this section becomes effective, electrical  
22 corporations that defer depreciation expense and return  
23 authorized under this section shall submit to the commission a  
24 five-year capital investment plan setting forth the general  
25 categories of capital expenditures the electrical corporation  
26 will pursue in furtherance of modernizing and securing its  
27 infrastructure. The plan shall also include a specific capital  
28 investment plan for the first year of the five-year plan

1 consistent with the level of specificity the electrical  
2 corporation has historically used for annual capital budgeting  
3 purposes. Project specific information is not required to be  
4 included for the five-year period covered by the plan. No later  
5 than February twenty-eighth of each subsequent year during which  
6 the electrical corporation is continuing to defer depreciation  
7 and expense and return as provided for by subsection 3 of this  
8 section, the electrical corporation shall submit to the  
9 commission an updated capital investment plan for the subsequent  
10 five years, a specific capital investment plan for the subsequent  
11 calendar year, and report the capital investments for the prior  
12 calendar year. Within thirty days of the filing of any capital  
13 investment plan or annual update to an existing plan, the  
14 electrical corporation shall host a public stakeholder meeting to  
15 answer questions and receive feedback about the plan. The  
16 electrical corporation shall provide public notice of the meeting  
17 to its customers on its website, and the meeting shall be located  
18 within the electrical corporation's service territory. After  
19 feedback is received, the electrical corporation shall file a  
20 notice with the commission of any modifications to the capital  
21 investment plan it has accepted. The plan, implementation of the  
22 plan, or schedule changes from year to year shall not constitute  
23 evidence of imprudence of the capital investment plan or the  
24 investments made under such plan. The fact that the electrical  
25 corporation invests more or less than the amounts specified in  
26 its initial or updated plans shall not constitute evidence of  
27 imprudence. The submission made under this section shall be made  
28 publicly available; provided however, portions of the submission

1 that contain confidential and proprietary information may be  
2 protected from public disclosure in a manner consistent with the  
3 rules or orders of the commission as applicable. Nothing in this  
4 section shall require the electrical corporation to publicly  
5 disclose confidential, proprietary, or financially sensitive  
6 information, any market sensitive information, or information  
7 that would otherwise violate rules promulgated by the Federal  
8 Energy Regulatory Commission designed to protect the integrity of  
9 wholesale power markets. The submission of a capital investment  
10 plan under this section shall not affect in any way the  
11 commission's authority with respect to the grant or denial of a  
12 certificate of convenience and necessity under section 393.170.

13 9. This section shall not apply to any electrical  
14 corporation that has not filed a notice with the commission of  
15 the electrical corporation's election to make the deferrals for  
16 which this section provides.

17 393.1410. 1. The provisions of section 386.020 defining  
18 words, phrases, and terms, shall apply to and determine the  
19 meaning of all such words, phrases, or terms as used in this  
20 section.

21 2. It shall be the policy of the state of Missouri for the  
22 commission to support expenditures by electrical corporations  
23 that maintain or improve the reliability, safety, security, or  
24 automation of electric infrastructure, including through the use  
25 of the latest technologies to meet the needs and expectations of  
26 customers. It shall also be the policy of the state of Missouri  
27 for the commission to approve rates designed to allow electrical  
28 corporations to recover their full cost of service and provide a

1 reasonable opportunity to earn a fair return.

2 3. The commission may utilize rate adjustment mechanisms  
3 not otherwise specifically authorized by statute including, but  
4 not limited to, mechanisms to promote modernization and  
5 replacement of an electrical corporation's infrastructure. The  
6 commission may also use partially forecasted test years, true-ups  
7 of retail revenue requirement components, tracking mechanisms,  
8 grid modernization incentive mechanisms, interim rates,  
9 performance-based ratemaking, revenue decoupling with regular  
10 adjustments, or decisional pre-approval with post construction  
11 review of construction projects. To the extent the commission's  
12 approval of a rate adjustment mechanism or other mechanism  
13 provided for by this section specifies a term over which the  
14 approval is to continue, the commission shall lack the authority  
15 to modify or eliminate the electrical corporation's use of the  
16 mechanism or tool during the specified term.

17 4. The public service commission is authorized to  
18 promulgate rules to implement the provisions of this section.  
19 Any rule or portion of a rule, as that term is defined in section  
20 536.010 that is created under the authority delegated in this  
21 section shall become effective only if it complies with and is  
22 subject to all of the provisions of chapter 536, and, if  
23 applicable, section 536.028. This section and chapter 536 are  
24 nonseverable and if any of the powers vested with the general  
25 assembly pursuant to chapter 536, to review, to delay the  
26 effective date, or to disapprove and annul a rule are  
27 subsequently held unconstitutional, then the grant of rulemaking  
28 authority and any rule proposed or adopted after August 28, 2017,

1 shall be invalid and void.

2 393.1600. 1. As used in this section, the following terms  
3 shall mean:

4 (1) "Electrical corporation", the same as defined in  
5 section 386.020, but shall not include an electrical corporation  
6 as defined and set forth under subsection 2 of section 393.110;

7 (2) "Processed solid biomass engineered fiber fuel", any  
8 fuel derived from raw biomass feedstock produced in this state  
9 that is changed from its original form by pyrolysis or other  
10 thermal or thermochemical conversion in a manufacturing process  
11 resulting in a solid fuel product with a heat value of at least  
12 eight thousand four hundred British Thermal Units per pound on an  
13 as received basis.

14 2. An electrical corporation's decision to modify such  
15 electrical corporation's owned fossil-fired generating plant  
16 located in Missouri solely to accommodate the test burn of a  
17 processed solid biomass engineered fiber fuel from Missouri-based  
18 products shall be deemed prudent, and the electrical corporation  
19 shall be allowed to timely reflect in its rates the prudently-  
20 incurred costs or investments incurred or made for such  
21 modification.

22 3. An electrical corporation's decision to test burn a  
23 processed solid biomass engineered fiber fuel in such electric  
24 utility's owned fossil-fired generating plant located in Missouri  
25 shall be deemed prudent, and the electrical corporation shall be  
26 allowed to timely reflect in its rates the prudently-incurred  
27 costs of the processed solid biomass engineered fiber fuel from  
28 Missouri-based products.

1           4. The total expenses to be reflected in the retail revenue  
2 requirement used to set rates of an electrical corporation for  
3 evaluating the feasibility of using processed solid biomass  
4 engineered fiber fuel from Missouri-based products shall not  
5 exceed two million dollars. The total capital expenditures to be  
6 reflected in an electrical corporation's rate base for Missouri-  
7 based fossil-fired generating plant modifications to accommodate  
8 the burning of processed solid biomass engineered fiber fuel  
9 shall not exceed ten million dollars.

10           5. An electrical corporation's expenditures for processed  
11 solid biomass engineered fiber fuel from Missouri-based products  
12 shall be deemed prudent regardless of the cost of the processed  
13 solid biomass engineered fiber fuel from Missouri-based products  
14 so long as:

15           (1) The annual cost of the processed solid biomass  
16 engineered fiber fuel from Missouri-based products does not  
17 exceed three percent of the electrical corporation's total fuel  
18 costs, as recorded in account numbers 501, 547, and 518 of the  
19 Federal Energy Regulatory Commission's Uniform System of Accounts  
20 for electric utilities, for the calendar year immediately prior  
21 to the execution of the contract for the purchase of the  
22 processed solid biomass engineered fiber fuel; and

23           (2) The price per British thermal unit of the processed  
24 solid biomass engineered fiber fuel from Missouri-based products  
25 does not exceed four dollars.

26           393.1640. 1. Subject to the limitations provided for in  
27 subsection 5 of this section, upon proper application by an  
28 eligible customer, an electrical corporation shall make available

1 an economic development rate to any customer that at the time the  
2 application is submitted is reasonably projected to add within  
3 two years separately metered incremental annual average monthly  
4 demand of at least five hundred kilowatts after November 1, 2016,  
5 and that at the time the application is submitted has forty  
6 megawatts or more of aggregated annual average monthly demands  
7 served under seven or more separate accounts, each with a service  
8 delivery voltage of thirty-four and one-half kilovolts or higher.  
9 The economic development rate shall be a special rate applicable  
10 to the increases in electric service billing units of any such  
11 customer related to such incremental demand. Subject to  
12 adjustments to account for changes in the electrical  
13 corporation's undiscounted rates, the special rate applicable to  
14 the incremental demand shall be sixty-two percent of the cents  
15 per kilowatt-hour realization derived from application of all  
16 base rate components to the customer's load, calculated without  
17 accounting for any discount the customer receives under  
18 subsection 4 of this section, prior to the increase in electric  
19 service billing units caused by the incremental load. The  
20 special rate shall be applied to the electric consumption related  
21 to such incremental load in lieu of any otherwise applicable base  
22 rate charges from the date when the meter has been permanently  
23 set until the date that such incremental load no longer meets the  
24 criteria required to qualify for the special rate, as determined  
25 under the provisions of subsection 5 of this section; provided  
26 however, that the discounts shall not extend beyond the date this  
27 section expires. Starting with the effective date of any change  
28 in the undiscounted rates that would have applied to such

1 incremental load but for the special rate provided for by this  
2 subsection, the cents per kilowatt-hour realization to which the  
3 thirty-eight percent discount is applied shall be adjusted by  
4 applying the then current undiscounted base rates to the billing  
5 units used to bill the customer's undiscounted load for the prior  
6 twelve billing periods. The electrical corporation's tariff may  
7 apply additional terms and conditions to a customer's utilization  
8 of the special rate, subject to approval of such terms and  
9 conditions by the commission. The customer, on forms supplied by  
10 the electrical corporation, shall apply for the special rate  
11 provided for by this subsection at least one hundred eighty days  
12 prior to the date the customer requests the meter applicable to  
13 the incremental demand to be permanently set. The incremental  
14 demand to which a discount under this subsection applies shall  
15 not receive any other discounts under this section.

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

22 (1) The customer adds incremental load with average monthly  
23 demand that is reasonably projected to be at least two hundred  
24 fifty kilowatts with a fifty-five percent load factor within two  
25 years of the date the application is submitted;

26 (2) The customer receives local, regional or state economic  
27 development incentives in conjunction with the incremental load;  
28 and

1       (3) The customer's goods or services are not directly and  
2 primarily sold in the local retail market from that account  
3 location.

4  
5 The discount shall be an average over a period of up to five  
6 years after the discount commences of twenty percent off all base  
7 rate components of the bill applied to such incremental load from  
8 the date when the meter has been permanently set until the date  
9 that such incremental load no longer meets the criteria required  
10 to qualify for the discount, as determined under the provisions  
11 of subsection 5 of this section, provided, that the discount  
12 during any one year of the up to five-year period shall not be  
13 less than five percent nor more than thirty percent. An eligible  
14 customer shall also receive a ten percent discount of all base  
15 rate components of the bill applied to such incremental load for  
16 one year after the initial discount period ends if the electrical  
17 corporation determines that the customer is taking service from  
18 an under-utilized circuit. In no event shall a customer receive  
19 a discount under this subsection after the date this section  
20 expires. The electrical corporation may include in its tariff  
21 additional or alternative terms and conditions to a customer's  
22 utilization of the discount, subject to approval of such terms  
23 and conditions by the commission. The customer, on forms  
24 supplied by the electrical corporation, shall apply for the  
25 discount provided for by this subsection at least ninety days  
26 prior to the date the customer requests that the incremental  
27 demand receive the discounts provided for by this subsection. If  
28 the incremental demand is not separately metered, the electrical

1 corporation's determination of the incremental demand shall  
2 control. The incremental demand to which discounts under this  
3 subsection applies shall not receive any other discounts under  
4 this section.

5 3. Subject to the limitations provided for in subsection 5  
6 of this section, an electrical corporation shall make available  
7 an economic development rider to customers served under its large  
8 power service rate schedule that added incremental demand of at  
9 least five hundred kilowatts on or prior to November 1, 2016, are  
10 being served under an existing economic development rider on the  
11 effective date of this section, and that meet either of the  
12 following criteria:

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

16 (2) Aggregated large power service demands of greater than  
17 thirty megawatts at up to five separate premises served by the  
18 electrical corporation.

19  
20 The rider shall provide that the incremental increases in  
21 electric service billing units by any such customer related to  
22 such incremental demand taken under an existing economic  
23 development rider on the effective date of this section shall  
24 qualify for a discount of twenty percent on all rate elements of  
25 the electric bill related to such incremental load from the  
26 effective date of this section until the earlier of the date that  
27 the customer's incremental load no longer exceeds the minimum  
28 incremental demand or no longer meets the fifty-five percent

1 annual load factor, if applicable; provided however, that the  
2 discounts shall not extend beyond the date this section expires.  
3 The rider shall also provide that the discount provided under the  
4 existing economic development rider shall terminate effective  
5 with the effectiveness of the discount provided under this  
6 subsection. The incremental demand to which a discount under  
7 this subsection applies shall not receive a discount under  
8 subsection 4 of this section.

9 4. Subject to the limitations provided for in subsection 5  
10 of this section, an electrical corporation shall make available  
11 an economic retention and development rate to customers that  
12 have forty megawatts or more of aggregated annual average monthly  
13 demands served under seven or more separate accounts, each with a  
14 service delivery voltage of thirty-four and one-half kilovolts or  
15 higher. For the accounts that qualified the customer for the  
16 economic retention and development rate under this subsection,  
17 the customer's charges for all base rate components of the bill  
18 shall equal eighty-five percent of the value of all such base  
19 rate components as of January first of the year in which the  
20 customer became eligible for the economic retention and  
21 development rate. The economic retention and development rate  
22 shall start on the first day of the billing cycle month following  
23 the later of the effective date of this section or the date the  
24 customer became eligible and shall continue until the date that  
25 the customer no longer meets the criteria required to qualify for  
26 the rate, as determined under the provisions of subsection 5 of  
27 this section; provided, however, that the rate shall not extend  
28 beyond the date this section expires. The accounts to which the

1 economic retention and development rate apply shall not receive  
2 any other discounts under this section.

3 5. In each general rate proceeding concluded after the  
4 effective date of this section, the reduced revenues arising from  
5 the application of discounted rates provided for by subsections  
6 1, 2, 3, and 4 of this section shall be allocated to all the  
7 electrical corporation's customer classes, including the classes  
8 with customers that qualify for discounts under this section,  
9 through a uniform percentage adjustment to all components of the  
10 base rates of all customer classes. With respect to the reduced  
11 revenues experienced by the electrical corporation due to the  
12 discounted rates provided for by subsection 4 of this section,  
13 the revenue reduction experienced because of such discounted rate  
14 between the time the discounted rate commences until the  
15 electrical corporation's base rates are reset in the first  
16 general rate proceeding concluding after the discounted rate  
17 commences shall be recorded to a regulatory asset, with the  
18 balance of that regulatory asset as of the date through which  
19 rate base additions are accounted for in that general rate  
20 proceeding to be recovered from all the electrical corporation's  
21 customer classes through a uniform percentage adjustment to all  
22 components of the base rates through an amortization using a  
23 reasonable amortization period; provided, that such reduced  
24 revenues from the date through which rate base additions are  
25 accounted for in that general rate proceeding through the date  
26 new rates take effect in that proceeding shall be recorded to the  
27 regulatory asset and recovered in the subsequent general rate  
28 proceeding in the same manner. In the absence of a commission

1 order issued within the three-year period prior to the effective  
2 date of this section that specifies the date through which rate  
3 base additions are to be accounted for, such date as reflected in  
4 any jointly proposed procedural schedule submitted by the parties  
5 in the applicable general rate proceeding, or as otherwise agreed  
6 to by such parties, shall be used. To qualify for the discounted  
7 rates provided for in this section, if incremental load is  
8 separately metered, customers shall meet the applicable criteria  
9 within twenty-four months after the date the meter is permanently  
10 set based on metering data for calendar months thirteen through  
11 twenty-four and annually thereafter, in the case of the discounts  
12 provided for in subsections 1, 2, or 3, and at the later of the  
13 effective date of this section or the date the customer became  
14 eligible and annually thereafter, in the case of subsection 4.  
15 If such data indicates that the customer did not meet the  
16 criteria for any applicable twelve-month period, it shall  
17 thereafter no longer qualify for the discounted rate. The  
18 provisions of this section do not supersede or limit the ability  
19 of an electrical corporation to continue to utilize economic  
20 development or retention tariffs previously approved by the  
21 commission that are in effect on the effective date of this  
22 section. If, however, a customer is receiving any economic  
23 development or retention-related discounts as of the date it  
24 would otherwise qualify for a discount provided for by this  
25 section, the customer must agree to relinquish the prior discount  
26 concurrently with the date it begins to receive a discount under  
27 this section; otherwise, the customer shall not be eligible to  
28 receive any discount under this section. Customer demand

1 existing at the time the customer begins to receive discounted  
2 rates under this section shall not constitute incremental demand.  
3 The discounted rates provided for by this section apply only to  
4 base rate components, with the charges or credits arising from  
5 any rate adjustment mechanism authorized by statute to be applied  
6 to customers qualifying for discounted rates under this section  
7 in the same manner as such rate adjustments would apply in the  
8 absence of this section.

9 393.1650. 1. For purposes of this section, the following  
10 terms shall mean:

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

13 (2) "Electrical corporation", a corporation with more than  
14 one million retail electric customers that otherwise meets the  
15 definition of "electrical corporation" in section 386.010.

16 2. Electrical corporations shall develop a qualification  
17 process and make such process open to all contractors seeking to  
18 provide construction and construction-related services for  
19 projects on the electrical corporation's distribution system.  
20 Contractors shall have the opportunity to register on the  
21 electrical corporation's vendor registration site and be  
22 evaluated for bid opportunities. Under the qualification  
23 process, electrical corporations may specify eligibility  
24 requirements typically accepted by the industry, including but  
25 not limited to, experience, performance criteria, safety  
26 policies, and insurance requirements to be met by any contractor  
27 seeking to participate in competitive bidding to provide  
28 construction and construction-related services for distribution

1 system projects, and the electrical corporation shall not weight  
2 any contractor favorably or unfavorably due to affiliation with a  
3 labor organization or union, except where the work is being  
4 performed pursuant to a union-only project labor agreement which  
5 requires that participating contractors use union represented  
6 labor. Contractors that meet the eligibility requirements set by  
7 electrical corporations shall be eligible to participate in the  
8 competitive bidding process for providing construction and  
9 construction-related services for distribution system projects,  
10 and the contractor making the lowest and best bid shall be  
11 awarded such contract.

12 3. Within thirty days after the effective date of this  
13 section, electrical corporations shall file a verified statement  
14 with the commission confirming that it has in place a  
15 qualification process for the competitive bidding of construction  
16 and construction-related services for distribution system  
17 projects, and that such process conforms with the requirements of  
18 this section. The commission shall have the authority to verify  
19 the statement to ensure compliance with this section. If the  
20 electrical corporation files a general rate proceeding, it shall  
21 submit concurrently with its submission of the rate schedules  
22 that initiate such general rate proceeding a verified statement  
23 confirming that it is using the qualification process for the  
24 competitive bidding of construction and construction-related  
25 services for distribution system projects required by this  
26 section for no less than ten percent of the combined external  
27 installation expenditures made by the electrical corporation's  
28 operating units in Missouri for construction and construction-

1 related services for distribution system projects, and that such  
2 process conforms with the requirements set forth in this section.  
3 The commission shall have the authority to verify the statement  
4 to ensure compliance with this subsection.

5 4. Nothing in this section shall be construed as requiring  
6 any electrical corporation, subject to the requirements of this  
7 section, to use a qualified contractor or competitive bidding  
8 process in the case of an emergency project, or to terminate any  
9 existing contract with a contractor prior to its expiration;  
10 provided however, that the use of any pre-existing contract for  
11 construction or construction-related services for distribution  
12 system projects shall not qualify as fulfilling the ten percent  
13 requirement set forth in subsection 3 of this section. For  
14 contractors not qualifying through the competitive bid process,  
15 the electrical corporation, upon request from the contractor,  
16 shall provide information from the process in which the  
17 contractor can be informed as to how to be better positioned to  
18 qualify for such bid opportunities in the future.

19 5. By December 31, 2019, and annually thereafter, the  
20 commission shall submit a report to the general assembly on the  
21 effects of this section, including electrical corporation  
22 compliance, potential legislative action regarding this section,  
23 the costs of constructing distribution system projects prior to  
24 the implementation of this section compared to after the  
25 implementation of this section, and any other information  
26 regarding the processes established under this section that the  
27 commission deems necessary.

28 393.1655. 1. This section applies to electrical

1 corporations that have elected to subject themselves to section  
2 393.1275 or section 393.1400 and that have more than two hundred  
3 thousand retail customers.

4 2. Notwithstanding any other provision of law and except as  
5 otherwise provided for by this section, such an electrical  
6 corporation's base rates shall be frozen starting on the date new  
7 base rates were established in the electrical corporation's last  
8 general rate proceeding concluded prior to the date the  
9 electrical corporation gave a notice under either subsection 4 of  
10 section 393.1275 or subsection 9 of section 393.1400 and ending  
11 on the third anniversary of that date.

12 3. If the difference between the electrical corporation's  
13 average base rates set in the electrical corporation's first  
14 general rate proceeding concluding on or after such three-year  
15 anniversary and the electrical corporation's average base rates  
16 set in the electrical corporation's most recent general rate  
17 proceeding concluded prior to the date the electrical corporation  
18 gave a notice under either subsection 4 of section 393.1275 or  
19 subsection 9 of section 393.1400 have increased by a compound  
20 annual growth rate of more than three percent, the electrical  
21 corporation shall establish a regulatory liability in the amounts  
22 specified in subsection 6 of this section. The regulatory  
23 liability shall be amortized over a reasonable period of time as  
24 determined by the commission.

25 4. If the difference between the electrical corporation's  
26 average base rates set in the electrical corporation's first  
27 general rate proceeding concluding on or after such three-year  
28 anniversary and the electrical corporation's average base rates

1 set in the electrical corporation's most recent general rate  
2 proceeding concluded prior to the date the electrical corporation  
3 gave a notice under either subsection 4 of section 393.1275 or  
4 subsection 9 of section 393.1400 have increased by a compound  
5 annual growth rate of more than three and three-quarters percent,  
6 the electrical corporation shall, starting with the effective  
7 date of its revised base rates, cease further deferrals under  
8 sections 393.1275 and 393.1400, with prior deferrals to be  
9 treated as provided for in such sections.

10 5. As used in this section, "average base rates" shall be  
11 calculated by dividing the total retail revenue requirement for  
12 all the electrical corporation's rate classes by the total sales  
13 volumes for all rate classes used to set rates in the applicable  
14 general rate proceeding, exclusive of gross receipts tax, sales  
15 tax and other similar pass-through taxes.

16 6. The regulatory liability provided for in subsection 3 of  
17 this section shall be twenty-five million dollars for an  
18 electrical corporation with more than one million retail  
19 customers and six million dollars for an electrical corporation  
20 with more than two hundred thousand but not more than one million  
21 retail customers, but not more than one million retail customers.

22 393.1660. Sections 393.1400, 393.1640, and 393.1650 shall  
23 expire on December 31, 2027, except to the extent expressly  
24 provided.