

FIRST REGULAR SESSION

SENATE BILL NO. 190

99TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR EMERY.

Pre-filed December 7, 2016, and ordered printed.

ADRIANE D. CROUSE, Secretary.

0512S.03I

AN ACT

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

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

Section A. Sections 386.266, 386.390, 393.1025, 393.1030, and 393.1075, RSMo, are repealed and twelve new sections enacted in lieu thereof, to be known as sections 386.266, 386.390, 393.1025, 393.1030, 393.1075, 393.1275, 393.1400, 393.1410, 393.1600, 393.1610, 393.1640, and 393.1660, to read as follows:

386.266. 1. **(1)** Subject to the requirements of this section, any electrical corporation may make an application to the commission to approve rate schedules authorizing an interim energy charge, or periodic rate adjustments outside of general rate proceedings to reflect increases and decreases in its prudently incurred fuel and purchased-power costs, including transportation. **Such rate schedules shall also include and provide for adjustments reflecting all prudently incurred transmission charges not included in the costs covered by the immediately preceding sentence, and all transmission revenues, paid to or received from any transmission service provider.** The commission may, in accordance with existing law, include in such rate schedules features designed to provide the electrical corporation with incentives to improve the efficiency and cost-effectiveness of its fuel and purchased-power procurement activities.

(2) Electrical corporations may file with the commission to amend existing rate schedules that provide for recovery of fuel and

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

16 **purchased-power costs, including transportation, and may do so**
17 **without the necessity of filing a general rate proceeding, with such**
18 **amended rate schedules to include transmission charges and revenues**
19 **as provided for in subdivision (1) of this subsection. Transmission**
20 **charges and revenues paid to or received from any transmission service**
21 **provider on or after the effective date of subdivision (1) of this**
22 **subsection, to the extent they are not already reflected in base rates,**
23 **shall be recovered beginning when the first rate adjustment is made**
24 **that covers the accounting period that coincides with the effect date of**
25 **subdivision (1) of this subsection.**

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

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

49 4. The commission shall have the power to approve, modify, or reject
50 adjustment mechanisms submitted under subsections 1 to 3 of this section only

51 after providing the opportunity for a full hearing in a general rate proceeding,
52 including a general rate proceeding initiated by complaint. The commission may
53 approve such rate schedules after considering all relevant factors which may
54 affect the costs or overall rates and charges of the corporation, provided that it
55 finds that the adjustment mechanism set forth in the schedules:

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

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

62 (3) In the case of an adjustment mechanism submitted under subsections
63 1 and 2 of this section, includes provisions requiring that the utility file a general
64 rate case with the effective date of new rates to be no later than four years after
65 the effective date of the commission order implementing the adjustment
66 mechanism. However, with respect to each mechanism, the four-year period shall
67 not include any periods in which the utility is prohibited from collecting any
68 charges under the adjustment mechanism, or any period for which charges
69 collected under the adjustment mechanism must be fully refunded. In the event
70 a court determines that the adjustment mechanism is unlawful and all moneys
71 collected thereunder are fully refunded, the utility shall be relieved of any
72 obligation under that adjustment mechanism to file a rate case;

73 (4) In the case of an adjustment mechanism submitted under subsection
74 1 or 2 of this section, includes provisions for prudence reviews of the costs subject
75 to the adjustment mechanism no less frequently than at eighteen-month
76 intervals, and shall require refund of any imprudently incurred costs plus
77 interest at the utility's short-term borrowing rate.

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

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

85 7. The commission may take into account any change in business risk to

86 the corporation resulting from implementation of the adjustment mechanism in
87 setting the corporation's allowed return in any rate proceeding, in addition to any
88 other changes in business risk experienced by the corporation.

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

93 9. Prior to August 28, 2005, the commission shall have the authority to
94 promulgate rules under the provisions of chapter 536 as it deems necessary, to
95 govern the structure, content and operation of such rate adjustments, and the
96 procedure for the submission, frequency, examination, hearing and approval of
97 such rate adjustments. Such rules shall be promulgated no later than one
98 hundred fifty days after the initiation of such rulemaking proceeding. Any
99 electrical, gas, or water corporation may apply for any adjustment mechanism
100 under this section whether or not the commission has promulgated any such
101 rules.

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

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

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

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

386.390. 1. Complaint may be made by the commission of its own motion,
2 or by the public counsel or any corporation or person, chamber of commerce,
3 board of trade, or any civic, commercial, mercantile, traffic, agricultural or
4 manufacturing association or organization, or any body politic or municipal
5 corporation, by petition or complaint in writing, setting forth any act or thing

6 done or omitted to be done by any corporation, person or public utility[, including
7 any rule, regulation or charge heretofore established or fixed by or for any
8 corporation, person or public utility,] in violation, or claimed to be in violation,
9 of any provision of law **subject to the commission's authority**, [or] of any
10 rule **promulgated by the commission**, or **of any tariff**, order or decision of
11 the commission; provided, that no complaint shall be entertained by the
12 commission, except upon its own motion, as to the reasonableness of any rates or
13 charges of any gas, electrical, water, sewer, or telephone corporation, unless the
14 same be signed by the public counsel or the mayor or the president or chairman
15 of the board of aldermen or a majority of the council, commission or other
16 legislative body of any city, town, village or county, within which the alleged
17 violation occurred, or not less than twenty-five consumers or purchasers, or
18 prospective consumers or purchasers, of such gas, electricity, water, sewer or
19 telephone service.

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

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

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

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

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

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

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

5 (3) "Electric utility", any electrical corporation as defined by section
6 386.020;

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

10 (5) "Renewable energy resources", electric energy produced from wind,
11 solar thermal sources, photovoltaic cells and panels, dedicated crops grown for
12 energy production, cellulosic agricultural residues, plant residues, **processed**
13 **solid biomass engineered fiber fuel as defined in section 393.1600**,
14 methane from landfills, from agricultural operations, or from wastewater
15 treatment, thermal depolymerization or pyrolysis for converting waste material
16 to energy, clean and untreated wood such as pallets, hydropower (not including
17 pumped storage) that does not require a new diversion or impoundment of water
18 and that has a nameplate rating of ten megawatts or less, fuel cells using
19 hydrogen produced by one of the above-named renewable energy sources, and
20 other sources of energy not including nuclear that become available after
21 November 4, 2008, and are certified as renewable by rule by the department.

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

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

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

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

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

10 At least two percent of each portfolio requirement shall be derived from solar
11 energy. The portfolio requirements shall apply to all power sold to Missouri
12 consumers whether such power is self-generated or purchased from another
13 source in or outside of this state. A utility may comply with the standard in
14 whole or in part by purchasing RECs. Each kilowatt-hour of eligible energy
15 generated in Missouri shall count as 1.25 kilowatt-hours for purposes of
16 compliance. **Each kilowatt-hour of eligible energy generated from**
17 **processed solid biomass engineered fiber fuel, as defined in section**

18 **393.1600, shall count as 1.50 kilowatt-hours for purposes of compliance.**

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

29 (1) A maximum average retail rate increase of one percent determined by
30 estimating and comparing the electric utility's cost of compliance with least-cost
31 renewable generation and the cost of continuing to generate or purchase
32 electricity from entirely nonrenewable sources, taking into proper account future
33 environmental regulatory risk including the risk of greenhouse gas
34 regulation. Notwithstanding the foregoing, until June 30, 2020, if the maximum
35 average retail rate increase would be less than or equal to one percent if an
36 electric utility's investment in solar-related projects initiated, owned or operated
37 by the electric utility is ignored for purposes of calculating the increase, then
38 additional solar rebates shall be paid and included in rates in an amount up to
39 the amount that would produce a retail rate increase equal to the difference
40 between a one percent retail rate increase and the retail rate increase calculated
41 when ignoring an electric utility's investment in solar-related projects initiated,
42 owned, or operated by the electric utility. Notwithstanding any provision to the
43 contrary in this section, even if the payment of additional solar rebates will
44 produce a maximum average retail rate increase of greater than one percent when
45 an electric utility's investment in solar-related projects initiated, owned or
46 operated by the electric utility are included in the calculation, the additional
47 solar rebate costs shall be included in the prudently incurred costs to be
48 recovered as contemplated by subdivision (4) of this subsection;

49 (2) Penalties of at least twice the average market value of renewable
50 energy credits for the compliance period for failure to meet the targets of
51 subsection 1 of this section. An electric utility will be excused if it proves to the
52 commission that failure was due to events beyond its reasonable control that

53 could not have been reasonably mitigated, or that the maximum average retail
54 rate increase has been reached. Penalties shall not be recovered from
55 customers. Amounts forfeited under this section shall be remitted to the
56 department to purchase renewable energy credits needed for compliance. Any
57 excess forfeited revenues shall be used by the department's energy center solely
58 for renewable energy and energy efficiency projects;

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

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

65 3. As provided for in this section, except for those electrical corporations
66 that qualify for an exemption under section 393.1050, each electric utility shall
67 make available to its retail customers a solar rebate for new or expanded solar
68 electric systems sited on customers' premises, up to a maximum of twenty-five
69 kilowatts per system, measured in direct current that were confirmed by the
70 electric utility to have become operational in compliance with the provisions of
71 section 386.890. The solar rebates shall be two dollars per watt for systems
72 becoming operational on or before June 30, 2014; one dollar and fifty cents per
73 watt for systems becoming operational between July 1, 2014, and June 30, 2015;
74 one dollar per watt for systems becoming operational between July 1, 2015, and
75 June 30, 2016; fifty cents per watt for systems becoming operational between July
76 1, 2016, and June 30, 2017; fifty cents per watt for systems becoming operational
77 between July 1, 2017, and June 30, 2019; twenty-five cents per watt for systems
78 becoming operational between July 1, 2019, and June 30, 2020; and zero cents per
79 watt for systems becoming operational after June 30, 2020. An electric utility
80 may, through its tariffs, require applications for rebates to be submitted up to one
81 hundred eighty-two days prior to the June thirtieth operational date. Nothing in
82 this section shall prevent an electrical corporation from offering rebates after July
83 1, 2020, through an approved tariff. If the electric utility determines the
84 maximum average retail rate increase provided for in subdivision (1) of subsection
85 2 of this section will be reached in any calendar year, the electric utility shall be
86 entitled to cease paying rebates to the extent necessary to avoid exceeding the
87 maximum average retail rate increase if the electrical corporation files with the

88 commission to suspend its rebate tariff for the remainder of that calendar year
89 at least sixty days prior to the change taking effect. The filing with the
90 commission to suspend the electrical corporation's rebate tariff shall include the
91 calculation reflecting that the maximum average retail rate increase will be
92 reached and supporting documentation reflecting that the maximum average
93 retail rate increase will be reached. The commission shall rule on the suspension
94 filing within sixty days of the date it is filed. If the commission determines that
95 the maximum average retail rate increase will be reached, the commission shall
96 approve the tariff suspension. The electric utility shall continue to process and
97 pay applicable solar rebates until a final commission ruling; however, if the
98 continued payment causes the electric utility to pay rebates that cause it to
99 exceed the maximum average retail rate increase, the expenditures shall be
100 considered prudently incurred costs as contemplated by subdivision (4) of
101 subsection 2 of this section and shall be recoverable as such by the electric utility.
102 As a condition of receiving a rebate, customers shall transfer to the electric utility
103 all right, title, and interest in and to the renewable energy credits associated with
104 the new or expanded solar electric system that qualified the customer for the
105 solar rebate for a period of ten years from the date the electric utility confirmed
106 that the solar electric system was installed and operational.

107 4. The department shall, in consultation with the commission, establish
108 by rule a certification process for electricity generated from renewable resources
109 and used to fulfill the requirements of subsection 1 of this section. Certification
110 criteria for renewable energy generation shall be determined by factors that
111 include fuel type, technology, and the environmental impacts of the generating
112 facility. Renewable energy facilities shall not cause undue adverse air, water, or
113 land use impacts, including impacts associated with the gathering of generation
114 feedstocks. If any amount of fossil fuel is used with renewable energy resources,
115 only the portion of electrical output attributable to renewable energy resources
116 shall be used to fulfill the portfolio requirements.

117 5. In carrying out the provisions of this section, the commission and the
118 department shall include methane generated from the anaerobic digestion of farm
119 animal waste and thermal depolymerization or pyrolysis for converting waste
120 material to energy as renewable energy resources for purposes of this section.

121 6. The commission shall have the authority to promulgate rules for the
122 implementation of this section, but only to the extent such rules are consistent

123 with, and do not delay the implementation of, the provisions of this section. Any
124 rule or portion of a rule, as that term is defined in section 536.010, that is created
125 under the authority delegated in this section shall become effective only if it
126 complies with and is subject to all of the provisions of chapter 536 and, if
127 applicable, section 536.028. This section and chapter 536 are nonseverable and
128 if any of the powers vested with the general assembly pursuant to chapter 536 to
129 review, to delay the effective date, or to disapprove and annul a rule are
130 subsequently held unconstitutional, then the grant of rulemaking authority and
131 any rule proposed or adopted after August 28, 2013, shall be invalid and void.

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

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

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

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

7 (3) "Demand-side program", any program conducted by the utility to
8 modify the net consumption of electricity on the retail customer's side of the
9 electric meter, including but not limited to energy efficiency measures, load
10 management, demand response, and interruptible or curtailable load, **and the**
11 **utilization of combined heat and power technology to generate**
12 **electricity from waste heat and assist customers with reducing the**
13 **amount of electricity delivered by such electrical corporation,**
14 **notwithstanding that such utilization may not modify consumption of**
15 **energy on the customer's side of the meter;**

16 (4) **"Electrical corporation", the same as defined in section**
17 **386.020, but shall not include an electrical corporation regulated under**
18 **chapters 386 and 393 but not subject to the commission's jurisdiction**
19 **over its rates, financing, accounting, or management under subsection**
20 **2 of section 393.110;**

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

23 [(5)] (6) "Interruptible or curtailable rate", a rate under which a
24 customer receives a reduced charge in exchange for agreeing to allow the utility
25 to withdraw the supply of electricity under certain specified conditions;

26 [(6)] (7) "Total resource cost test", a test that compares the sum of

27 avoided utility costs and avoided probable environmental compliance costs to the
28 sum of all incremental costs of end-use measures that are implemented due to the
29 program, as defined by the commission in rules.

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

34 (1) Provide timely cost recovery for utilities;

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

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

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

55 5. To comply with this section the commission may develop cost recovery
56 mechanisms to further encourage investments in demand-side programs
57 including, in combination and without limitation: capitalization of investments
58 in and expenditures for demand-side programs, rate design modifications,
59 accelerated depreciation on demand-side investments, and allowing the utility to
60 retain a portion of the net benefits of a demand-side program for its shareholders.
61 In setting rates the commission shall fairly apportion the costs and benefits of

62 demand-side programs to each customer class except as provided for in subsection
63 6 of this section. Prior to approving a rate design modification associated with
64 demand-side cost recovery, the commission shall conclude a docket studying the
65 effects thereof and promulgate an appropriate rule.

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

69 7. [Provided that the customer has notified the electric] **A customer**
70 **meeting the criteria specified in this subsection may notify an**
71 **electrical corporation in writing** that the customer elects not to participate in
72 demand-side measures offered by [an] **the electrical corporation as to some or**
73 **all of the customer's electric service accounts. Starting with the first**
74 **day of the billing cycle month occurring after such notification is given,**
75 **[none of the costs of] charges arising from** demand-side measures of [an
76 electric] **the electrical** corporation offered under this section or by any other
77 authority[, and no other charges implemented in accordance with this section,]
78 shall **not** be [assigned to any account of any customer] **included on the bill for**
79 **any account of the customer specified in such notice**, including **any bill**
80 **for such an account issued to** its affiliates and subsidiaries[, meeting]. **To**
81 **be eligible to give the notice provided for in this subsection, the**
82 **customer shall meet** one or more of the following criteria:

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

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

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

92 8. **Eligible** customers that have [notified] **provided notice under**
93 **subsection 7 of this section to** the electrical corporation that they do not wish
94 to participate in demand-side programs under this section **as to some, or all,**
95 **of their electric service accounts** shall not subsequently be eligible to
96 participate in demand-side programs [except under guidelines established by the

97 commission in rulemaking] **for the specified accounts unless the customer**
98 **provides an additional notice, in writing, rescinding its previous notice**
99 **as to some or all of the customer's accounts.**

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

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

107 11. The commission shall provide oversight and may adopt rules and
108 procedures and approve corporation-specific settlements and tariff provisions,
109 independent evaluation of demand-side programs, as necessary, to ensure that
110 electric corporations can achieve the goals of this section. Any rule or portion of
111 a rule, as that term is defined in section 536.010, that is created under the
112 authority delegated in this section shall become effective only if it complies with
113 and is subject to all of the provisions of chapter 536 and, if applicable, section
114 536.028. This section and chapter 536 are nonseverable and if any of the powers
115 vested with the general assembly pursuant to chapter 536 to review, to delay the
116 effective date, or to disapprove and annul a rule are subsequently held
117 unconstitutional, then the grant of rulemaking authority and any rule proposed
118 or adopted after August 28, 2009, shall be invalid and void.

119 12. Each electric corporation shall submit an annual report to the
120 commission describing the demand-side programs implemented by the utility in
121 the previous year. The report shall document program expenditures, including
122 incentive payments, peak demand and energy savings impacts and the techniques
123 used to estimate those impacts, avoided costs and the techniques used to estimate
124 those costs, the estimated cost-effectiveness of the demand-side programs, and the
125 net economic benefits of the demand-side programs.

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

129 14. [(1) Any customer of an electrical corporation who has received a
130 state tax credit under sections 135.350 to 135.362 or under sections 253.545 to
131 253.561 shall not be eligible for participation in any demand-side program offered

132 by an electrical corporation under this section if such program offers a monetary
133 incentive to the customer, except as provided in subdivision (4) of this subsection.

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

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

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

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

**393.1275. 1. The provisions of section 386.020 defining words,
2 phrases, and terms shall apply to and determine the meaning of all
3 such words, phrases, or terms as used in this section.**

**4 2. Electrical corporations shall defer to a regulatory asset or
5 liability account any difference in state or local property taxes actually
6 incurred, and those on which the revenue requirement used to set rates
7 in the electrical corporation's most recently completed general rate
8 proceeding was based. The regulatory asset or liability account
9 balances shall be included in the revenue requirement used to set rates
10 through an amortization over a reasonable period of time in such
11 corporation's subsequent general rate proceedings, without any offset.
12 The commission shall also adjust the rate base used to establish the
13 revenue requirement of such corporation to reflect the unamortized
14 regulatory asset or liability account balances in such general rate
15 proceedings.**

16 **3. On and after the effective date of rates in an electrical**
17 **corporation's next general rate proceeding concluding after the**
18 **effective date of this section, electrical corporation shall defer to a**
19 **regulatory asset or liability account any difference in the operations**
20 **and maintenance expense actually incurred to protect the reliability**
21 **and security of systems, software, equipment, and facilities connected**
22 **to or controlling the electric system against physical or cyber-security**
23 **threats, including but not limited to generating stations, substations,**
24 **and control centers, and the operations and maintenance expense for**
25 **such protection that was used to set rates in the electrical corporation's**
26 **prior general rate proceeding. The regulatory asset or liability account**
27 **balances shall be included in the revenue requirement used to set rates**
28 **through an amortization over a reasonable period of time in such**
29 **corporation's subsequent general rate proceedings, without any offset.**
30 **The commission shall also adjust the rate base used to establish the**
31 **revenue requirement of such corporation to reflect the unamortized**
32 **regulatory asset or liability account balances in such general rate**
33 **proceedings.**

393.1400. 1. This section and section 393.1640 shall be known and
2 **may be cited as the "Missouri Economic Development and**
3 **Infrastructure Investment Act".**

4 **2. For purposes of this section and section 393.1640, the following**
5 **terms shall mean:**

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

7 **(2) "Electrical corporation", the same as defined in section**
8 **386.020, but shall not include an electrical corporation regulated under**
9 **chapters 386 and 393 but not subject to the commission's jurisdiction**
10 **over its rates, financing, accounting, or management under subsection**
11 **2 of section 393.110;**

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

15 **(4) "Relevant period", a period starting on the date on which rate**
16 **base additions are accounted for in developing an electrical**
17 **corporation's revenue requirement in a general rate proceeding, and**
18 **ending on the date on which rate base additions are accounted for in**

19 the electrical corporation's subsequent general rate proceeding, with
20 the first relevant period starting on the effective date of this section.

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

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

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

51 4. For purposes of calculating deferred depreciation expense and
52 return under this section:

53 (1) Deferred depreciation expense shall equal the original cost
54 of each project included in the qualifying electric plant placed in

55 service during the relevant period less retirements of plant replaced by
56 such qualifying electric plant, multiplied by the depreciation rate
57 applicable to qualifying projects, calculated using the depreciation
58 rates used to set rates in the electrical corporation's most recently
59 completed general rate proceeding concluded prior to the end of the
60 relevant period;

61 (2) Deferred return shall equal the change in plant-related rate
62 base during the relevant period multiplied by the electrical
63 corporation's weighted average cost of capital used to determine the
64 electrical corporation's revenue requirement in the electrical
65 corporation's most recently completed general rate proceeding
66 concluded prior to the relevant period, plus applicable federal, state,
67 and local income or excise taxes. The change in plant-related rate base
68 during the relevant period shall equal the sum of the original cost of all
69 of the projects included in the qualifying electric plant placed in
70 service during the relevant period less accumulated depreciation on
71 such plant; and less the marginal increase in accumulated deferred
72 income tax assets and liabilities, including deferred tax assets from net
73 operating losses, attributable to such plant in the aggregate; and less
74 the change in accumulated depreciation, excluding retirements, and the
75 change in plant-related accumulated deferred income tax assets and
76 liabilities, including deferred tax assets from net operating losses,
77 attributable to such plant in the aggregate recorded during the
78 relevant period arising from assets that were reflected in the electrical
79 corporation's regulated rate base before the beginning of the relevant
80 period.

81 (3) The electrical corporation shall perform the calculation of
82 deferred depreciation and return under this subsection for all of the
83 projects included in the qualifying electric plant placed in service
84 during the relevant period and shall defer the calculated amounts
85 monthly, with the qualifying projects to be deemed to have been placed
86 in service on the fifteenth day of the month in which they were placed
87 in service.

88 5. Depreciation expense and return from the end of any relevant
89 period to the effective date of rates in the general rate proceeding
90 where deferrals related to qualifying electric plant placed in service

91 during that general rate proceeding are included in the electrical
92 corporation's rate base, shall also be deferred on qualifying electric
93 plant placed in service during that relevant period. The depreciation
94 expense and return deferred under this subsection shall also be
95 recorded to the regulatory asset account that will be included in the
96 electrical corporation's rate base in the electrical corporation's
97 subsequent general rate proceeding, together with deferrals arising
98 under subsection 3 of this section of depreciation expense and return
99 for qualifying electric plant placed in service during the relevant
100 period applicable to the electrical corporation's general rate
101 proceeding.

102 6. In each general rate proceeding, the revenue requirement
103 resulting from the inclusion of sums deferred to a regulatory asset
104 account authorized under this section in rate base and the amortization
105 of such a regulatory asset shall be allocated to each rate class in the
106 same manner as the remainder of the change in the revenue
107 requirement is allocated.

108 7. Notwithstanding the foregoing provisions of this section, the
109 impact on the revenue requirement caused solely by the inclusion of
110 the balance of the regulatory asset created during the most recent
111 relevant period in rate base in any general rate proceeding shall not
112 exceed the maximum revenue requirement impact percentage
113 determined in the following manner: the maximum revenue
114 requirement impact percentage shall be determined by multiplying
115 three-quarters of one percent by the number of completed months since
116 the date through which rate base additions were accounted for in the
117 electrical corporation's most recently completed general rate
118 proceeding, divided by twelve. The portion of the regulatory asset
119 created during the most recent relevant period which results in an
120 increase in the revenue requirement that exceeds the maximum
121 revenue requirement impact percentage shall not be recoverable in
122 rates.

123 8. Beginning February twenty-eighth of the year after the year in
124 which this section becomes effective, electrical corporations that defer
125 depreciation expense and return authorized under this section shall
126 submit to the commission a five year capital investment plan setting

127 forth the general categories of capital expenditures the electrical
128 corporation will pursue in furtherance of modernizing and securing its
129 infrastructure. The plan shall also include a specific capital investment
130 plan for the first year of the five year plan consistent with the level of
131 specificity the electrical corporation has historically used for annual
132 capital budgeting purposes. Project specific information is not required
133 to be included for the five year period covered by the plan. No later
134 than February twenty-eighth of each subsequent year during which the
135 electrical corporation is continuing to defer depreciation and expense
136 and return as provided for by subsection 3 of this section, the electrical
137 corporation shall submit to the commission an updated capital
138 investment plan for the subsequent five years, a specific capital
139 investment plan for the subsequent calendar year, and report the capital
140 investments for the prior calendar year. Within thirty days of the filing
141 of any capital investment plan or annual update to an existing plan, the
142 electrical corporation shall host a public stakeholder meeting to answer
143 questions and receive feedback about the plan. The electrical
144 corporation shall provide public notice of the meeting to its customers
145 on its website, and the meeting shall be located within the electrical
146 corporation's service territory. After feedback is received, the electrical
147 corporation shall file a notice with the commission of any modifications
148 to the capital investment plan it has accepted. The plan,
149 implementation of the plan, or schedule changes from year to year shall
150 not constitute evidence of imprudence of the capital investment plan or
151 the investments made under such plan. The fact that the electrical
152 corporation invests more or less than the amounts specified in its initial
153 or updated plans shall not constitute evidence of imprudence. The
154 submission made under this section shall be made publicly available;
155 provided however, portions of the submission that contain confidential
156 and proprietary information may be protected from public disclosure in
157 a manner consistent with the rules or orders of the commission as
158 applicable. Nothing in this section shall require the electrical
159 corporation to publicly disclose confidential, proprietary, or financially
160 sensitive information, any market sensitive information, or information
161 that would otherwise violate rules promulgated by the Federal Energy
162 Regulatory Commission designed to protect the integrity of wholesale

163 power markets. The submission of a capital investment plan under this
164 section shall not affect in any way the commission's authority with
165 respect to the grant or denial of a certificate of convenience and
166 necessity under section 393.170.

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

4 2. It shall be the policy of the state of Missouri for the commission
5 to support expenditures by electrical corporations that maintain or
6 improve the reliability, safety, security, or automation of electric
7 infrastructure, including through the use of the latest technologies to
8 meet the needs and expectations of customers. It shall also be the policy
9 of the state of Missouri for the commission to approve rates designed to
10 allow electrical corporations to recover their full cost of service and
11 provide a reasonable opportunity to earn a fair return.

12 3. The commission may utilize rate adjustment mechanisms not
13 otherwise specifically authorized by statute including, but not limited
14 to, mechanisms to promote modernization and replacement of an
15 electrical corporation's infrastructure. The commission may also use
16 partially forecasted test years, true-ups of revenue requirement
17 components, tracking mechanisms, grid modernization incentive
18 mechanisms, interim rates, performance-based rate decoupling, or
19 decisional pre-approval with post construction review of construction
20 projects.

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

393.1600. 1. As used in this section, the following terms shall

mean:

2 (1) "Electrical corporation", the same as defined in section
3 386.020, but shall not include an electrical corporation regulated under
4 chapters 386 and 393 but not subject to the commission's jurisdiction
5 over its rates, financing, accounting, or management under subsection
6 2 of section 393.110;

7 (2) "Processed solid biomass engineered fiber fuel", any fuel
8 derived from raw biomass feedstock produced in this state that is
9 changed from its original form and combined in a manufacturing
10 process that can accommodate two or more independent raw biomass
11 feedstocks and resulting in a solid fuel product with a heat value of at
12 least eight thousand five hundred British Thermal Units per pound on
13 a dry matter basis. Processed solid biomass engineered fiber fuel shall
14 not include any solid biomass fuel that is produced solely from a
15 densification of a single raw biomass feedstock.

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

22 3. Any electrical corporation that elects to test burn a processed
23 solid biomass engineered fiber fuel in such electric utility's owned
24 fossil-fired generating plant located in Missouri shall be allowed to
25 timely reflect in its rates the cost of the processed solid biomass
26 engineered fiber fuel from Missouri-based products.

27 4. The total expenditures to be reflected in the rates of an
28 electrical corporation for evaluating the feasibility of using processed
29 solid biomass engineered fiber fuel from Missouri-based products shall
30 not exceed two million dollars. The total additional expenditures to be
31 reflected in the rates of an electrical corporation for Missouri-based
32 fossil-fired generating plant modifications to accommodate the test burn
33 of processed solid biomass engineered fiber fuel shall not exceed ten
34 million dollars.

 393.1610. 1. The commission shall permit an electrical
2 corporation to recover costs incurred for projects to deploy electrical

3 generation, distribution, or transmission technology or equipment with
4 which the electrical corporation has little or no operational experience,
5 including but not limited to projects involving renewable generation,
6 microgrids, and energy storage, with recovery allowed without a
7 demonstration by the electrical corporation that the technology or
8 equipment represents the least cost alternative; provided however, that
9 any such project:

10 (1) Is designed to advance the electrical corporation's operational
11 knowledge of deploying such technology or equipment or otherwise
12 produces beneficial knowledge or experience;

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

14 (3) Increases the electrical corporation's rate base by no more
15 than one percent as of the time investments made under this section are
16 included in rate base for ratemaking purposes.

17 2. The requirements of section 393.170 shall not apply to the
18 construction by an electrical corporation of a renewable energy
19 resource that has a nameplate capacity of 1 megawatt or less. For
20 purposes of this section, "electrical corporation" shall mean the same as
21 defined in section 386.020, but shall not include an electrical
22 corporation regulated under chapters 386 and 393 but not subject to the
23 commission's jurisdiction over its rates, financing, accounting, or
24 management under subsection 2 of section 393.110.

393.1640. 1. Subject to the limitations provided for in subsection
2 5 of this section, an electrical corporation shall make available an
3 economic development rider to customers served under its large power
4 service rate schedule that add incremental demand of at least five
5 hundred kilowatts after November 1, 2016, and that meet either of the
6 following criteria:

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

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

12 The rider shall provide that the increases in electric service billing
13 units by any such customer related to such incremental demand shall
14 qualify for a special electric rate. The special rate shall be fifty-eight

15 percent of the cents per kilowatt-hour realization derived from
16 application of all rate components to the customer's load prior to the
17 increase in electric service billing units plus ten percent of the
18 remainder of such cents per kilowatt-hour realization and shall be
19 applied to the electric bill related to such incremental load from the
20 date when the meter has been permanently set until the earlier of the
21 date that the customer's incremental load no longer exceeds the
22 minimum incremental demand or no longer meets the fifty-five percent
23 annual load factor, if applicable; provided however, that the discounts
24 shall not extend beyond the date this section expires. The incremental
25 demand to which a discount under this subsection applies shall not
26 receive a discount under subsection 4 of this section.

27 2. Subject to the limitations provided for in subsection 5 of this
28 section, a large power service account that is new to the electrical
29 corporation's system after November 1, 2016, with demand greater than
30 fifteen megawatts and an annual load factor of at least fifty-five percent
31 shall qualify for a discount of twenty percent on all rate elements of the
32 electric bill from the date when the meter has been permanently set
33 until the earlier of the date that the customer's load no longer exceeds
34 the minimum fifteen megawatts demand or no longer meets the fifty-five
35 percent annual load factor; provided however, that the discounts shall
36 not extend beyond the date this section expires. A new account to which
37 a discount under this subsection applies shall not receive a discount
38 under subsection 4 of this section.

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

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

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

51 The rider shall provide that the incremental increases in electric service
52 billing units by any such customer related to such incremental demand
53 taken under an existing economic development rider on the effective
54 date of this section shall qualify for a discount of twenty percent on all
55 rate elements of the electric bill related to such incremental load from
56 the effective date of this section until the earlier of the date that the
57 customer's incremental load no longer exceeds the minimum
58 incremental demand or no longer meets the fifty-five percent annual
59 load factor, if applicable; provided however, that the discounts shall not
60 extend beyond the date this section expires. The rider shall also
61 provide that the discount provided under the existing economic
62 development rider shall terminate effective with the effectiveness of the
63 discount provided under this subdivision. The incremental demand to
64 which a discount under this subsection applies shall not receive a
65 discount under subsection 4 of this section.

66 4. Subject to the limitations provided for in this subsection and
67 subsection 5 of this section, an electrical corporation shall make
68 available an economic retention and development rider available to
69 customers served under its large power service rate schedule if the
70 customer meets either of the following criteria:

71 (1) The customer has a demand on a single account greater than
72 forty megawatts and an annual load factor of at least eighty percent; or

73 (2) The customer has an aggregated large power service demands
74 with a service delivery voltage of thirty-four and one-half kilovolts or
75 higher of greater than forty megawatts through seven or more separate
76 accounts served by the electrical corporation.

77 The economic retention and development rider required by this
78 subsection shall provide for a discount of fifteen percent on all rate
79 elements of the large power service rate schedule, as those rate
80 elements appeared on January first of the year in which the customer
81 became eligible for the economic retention and development rider, with
82 the discount to start on the first day of the billing cycle month following
83 the later of the effective date of this section or the date the customer
84 became eligible and continuing, without regard to any increases that
85 might occur in the large power service rate schedule rate elements,
86 until the date that the customer's load or load factor no longer exceed

87 the minimums provided for in this subsection; provided however, that
88 the discounts shall not extend beyond the date this section expires.

89 5. The reduced revenues arising from the discounts provided by
90 subsections 1, 2, 3, and 4 of this section shall be borne by the electrical
91 corporation's customer classes other than its large power service class
92 by allocating the impact of the reduced revenues to such customer
93 classes through a uniform percentage adjustment to all elements of the
94 base rates of all such customer classes. To qualify for the discounted
95 rates provided for in this section, customers shall meet the applicable
96 criteria at the time the meter is permanently set and annually
97 thereafter, in the case of the discounts provided for in subsections 1, 2,
98 or 3, and at the later of the effective date of this section or the date the
99 customer became eligible and annually thereafter, in the case of
100 subsection 4. In the case of the discounts provided for by subsections
101 1, 2, 3 or 4 of this section, whether a customer continues to meet the
102 applicable criteria annually thereafter shall be determined at the end
103 of each calendar year based on metering data for such calendar year.
104 If such data indicates that the customer did not meet the criteria for
105 such calendar year, it shall thereafter no longer qualify for the
106 discounted rate.

 393.1660. Sections 393.1400, 393.1600, and 393.1640 expire on
2 December 31, 2027, except to the extent expressly provided.

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