

FIRST REGULAR SESSION

# SENATE BILL NO. 242

99TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR EMERY.

Pre-filed December 30, 2016, and ordered printed.

ADRIANE D. CROUSE, Secretary.

1022S.011

## AN ACT

To repeal section 393.1012, RSMo, and to enact in lieu thereof twelve new sections relating to ratemaking for gas corporations.

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

Section A. Section 393.1012, RSMo, is repealed and twelve new sections  
2 enacted in lieu thereof, to be known as sections 393.1012, 393.1700, 393.1705,  
3 393.1710, 393.1715, 393.1720, 393.1725, 393.1730, 393.1735, 393.1740, 393.1745,  
4 and 393.1750, to read as follows:

393.1012. 1. Notwithstanding any provisions of chapter 386 and this  
2 chapter to the contrary, beginning August 28, 2003, a gas corporation providing  
3 gas service may file a petition and proposed rate schedules with the commission  
4 to establish or change ISRS rate schedules that will allow for the adjustment of  
5 the gas corporation's rates and charges to provide for the recovery of costs for  
6 eligible infrastructure system replacements. The commission may not approve  
7 an ISRS to the extent it would produce total annualized ISRS revenues below the  
8 lesser of one million dollars or one-half of one percent of the gas corporation's  
9 base revenue level approved by the commission in the gas corporation's most  
10 recent general rate proceeding. The commission may not approve an ISRS to the  
11 extent it would produce total annualized ISRS revenues exceeding ten percent of  
12 the gas corporation's base revenue level approved by the commission in the gas  
13 corporation's most recent general rate proceeding. An ISRS and any future  
14 changes thereto shall be calculated and implemented in accordance with the  
15 provisions of sections 393.1009 to 393.1015. ISRS revenues shall be subject to a  
16 refund based upon a finding and order of the commission to the extent provided  
17 in subsections 5 and 8 of section 393.1009.

18 2. The commission shall not approve an ISRS for any gas corporation that

19 has not had a general rate proceeding decided or dismissed by issuance of a  
20 commission order within the past three years, unless the gas corporation has filed  
21 for or is the subject of a new general rate proceeding. **This subsection shall**  
22 **not apply to a participating gas corporation whose rates are set under**  
23 **sections 393.1700 to 393.1750.**

24 3. In no event shall a gas corporation collect an ISRS for a period  
25 exceeding three years unless the gas corporation has filed for or is the subject of  
26 a new general rate proceeding; provided that the ISRS may be collected until the  
27 effective date of new rate schedules established as a result of the new general  
28 rate proceeding, or until the subject general rate proceeding is otherwise decided  
29 or dismissed by issuance of a commission order without new rates being  
30 established. **This subsection shall not apply to a participating gas**  
31 **corporation whose rates are set under sections 393.1700 to 393.1750.**

32 4. In order for a gas corporation to file a petition with the  
33 commission to establish or change an ISRS, such corporation shall, by  
34 **January 1, 2019, develop and file with the commission a pre-**  
35 **qualification process for contractors seeking to participate in**  
36 **competitive bidding to install ISRS-eligible gas utility plant**  
37 **projects. Under the pre-qualification process, the gas corporation may**  
38 **specify certain eligibility requirements typically accepted by the**  
39 **industry, including but not limited to, experience, performance criteria,**  
40 **safety policies, and insurance requirements to be met by any contractor**  
41 **seeking to participate in competitive bidding to install ISRS-eligible**  
42 **gas utility plant projects. Under no circumstance shall the criteria set**  
43 **by the gas corporation discriminate against any contractor for either**  
44 **contracting with or not contracting with, a labor organization or union,**  
45 **as those terms are defined in section 290.210, for installing such gas**  
46 **utility plant projects. Contractors that meet the pre-qualification**  
47 **criteria set by the gas corporation shall be eligible to participate in the**  
48 **competitive bidding process for installing ISRS-eligible gas utility plant**  
49 **projects, with the winning bid awarded to the contractor making the**  
50 **overall lowest and best bid, as defined in subsection 2 of section**  
51 **34.010. The gas corporation shall file, by January 1, 2019, a verified**  
52 **statement with the commission confirming that it has in place a pre-**  
53 **qualification process for the competitive bidding of ISRS-eligible gas**  
54 **utility plant projects, and that such process conforms with the**  
55 **requirements of this section. The commission shall have the authority**

56 to verify the statement to ensure compliance with this section. After  
57 January 1, 2019, the gas corporation shall submit with each petition  
58 filing to establish or change an ISRS a verified statement confirming  
59 that it is using a competitive bidding process for no less than ten  
60 percent of the combined external installation expenditures made by the  
61 gas corporation's operating units in Missouri for installing ISRS-  
62 eligible gas utility plant projects, and that such process conforms with  
63 the requirements set forth in this section. The commission shall have  
64 the authority to verify the statement to ensure compliance with this  
65 section. Nothing in this section shall be construed as requiring any gas  
66 corporation to use a pre-qualified contractor or competitive bidding  
67 process in the case of an emergency project, or to terminate any  
68 existing contract with a contractor prior to its expiration; provided  
69 however, that the use of any preexisting contract for the installation of  
70 ISRS-eligible gas utility plant projects shall not qualify as fulfilling the  
71 ten percent requirement set forth in this section beyond December 31,  
72 2019. For contractors not qualifying through the competitive bid  
73 process, the gas corporation, upon request from the contractor, shall  
74 provide information from the process in which the contractor can be  
75 informed as to how to be better positioned to qualify for such bid  
76 opportunities in the future.

77 5. By December 31, 2020, and annually thereafter, the commission  
78 shall submit a report to the general assembly on the effects of  
79 subsection 4 of this section, including gas corporation compliance,  
80 potential legislative action regarding subsection 4 of this section, the  
81 costs of installing ISRS-eligible gas utility plant projects prior to the  
82 implementation of subsection 4 of this section compared to after the  
83 implementation of subsection 4 of this section, and any other  
84 information regarding the processes established under subsection 4 of  
85 this section that the commission deems necessary.

86 6. Nothing in this section shall be construed as diminishing in  
87 any way the current authority and rights of the commission, on its own  
88 motion, the staff of the commission, public counsel, the mayor or the  
89 president or chairman of the board of aldermen or a majority of the  
90 council, commission, or other legislative body of any city, town, village,  
91 or county located in the service territory of the gas corporation, or not  
92 less than twenty-five consumers or purchasers, or prospective

93 consumers or purchasers, of gas from the gas corporation to file a  
94 complaint under section 386.390 alleging that the rates or charges of  
95 the gas corporation are unreasonable or unlawful.

393.1700. Sections 393.1700 to 393.1750 shall be known and cited  
2 as the "Rate Case Modernization Act".

393.1705. It shall be the policy of this state to apply sections  
2 393.1700 to 393.1750 to gas corporations that voluntarily choose to be  
3 subject to such sections. The provisions of sections 393.1700 to 393.1750  
4 builds upon and extends traditional ratemaking elements and  
5 procedures to modernize the rate case process for gas corporations in  
6 a manner that will advance the interests of both utilities and their  
7 customers, while contributing to economic growth within the  
8 state. Sections 393.1700 to 393.1750 seek to accomplish the following  
9 goals with a balanced set of modifications that:

10 (1) Better align the interests of gas corporations and their  
11 customers by providing meaningful, performance-based accountabilities  
12 and incentives to encourage utilities to more aggressively pursue cost  
13 efficiencies, improve service quality, and continue to invest in the  
14 modernization of their critical infrastructure;

15 (2) Enable growth and business development under terms that  
16 will help create jobs and produce benefits for the state while  
17 contributing to cost recovery and lower rates for all other customers;

18 (3) Increase customer protections through caps on rate increases,  
19 annual true-ups that include an earnings test, retention of commission  
20 jurisdiction, the use of traditional ratemaking elements, the  
21 requirement for greater transparency and frequency of reporting that  
22 will foster better interaction and collaboration between stakeholders  
23 in the regulatory process; and

24 (4) Provide customers with greater rate stability by avoiding or  
25 mitigating large bill impacts associated with large periodic rate cases  
26 and highly variable weather, and by creating conditions that will better  
27 enable the utility to provide lower customer charges and more  
28 aggressive energy efficiency programs, which will enable customers to  
29 achieve meaningful savings on natural gas costs without detrimentally  
30 affecting the gas corporation.

393.1710. 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 sections 393.1700 to 393.1750.

4       2. As used in sections 393.1700 to 393.1750, the following terms  
5 shall mean:

6       (1) "Annual rate cap", a limitation on the amount of any increase  
7 to the revenue requirement reflected in rates resulting from the  
8 application of the earnings test to an annual amount of no more than  
9 three and one half percent of a gas corporation's Missouri gross  
10 jurisdictional revenues, with excess amounts deferred to a later  
11 period. Such limitation is inclusive of any ISRS, reset in the annual  
12 true-up;

13       (2) "Annual true-up", an annual filing made by a participating gas  
14 corporation to reflect in rates various updated financial and  
15 operational results, and utilizing the ratemaking and review process  
16 described in sections 393.1700 to 393.1750;

17       (3) "Cost management accountability" or "CMA", an adjustment  
18 mechanism used in the annual true-up to better hold a participating  
19 gas corporation accountable for and incentivize effective management  
20 of its costs, by comparing the updated O&M expense to a performance  
21 benchmark approved in the periodic rate proceeding based on the  
22 normalized and annualized O&M expense in the then concluding year,  
23 updated for increases in the Consumers Price Index-For All Urban  
24 Consumers (CPI-U). The CMA shall be subject to a grow and share  
25 provision to recognize that significant growth in the gas corporation or  
26 its parent corporation benefits customers and the state;

27       (4) "Cost stabilization reserve", a mechanism designed to  
28 moderate the impacts of significant extraordinary or force majeure  
29 expenses on the revenue requirement recovered through the annual  
30 true-up by permitting such costs to be deferred and booked to a  
31 regulatory asset account and amortized in rates over a period of three  
32 to five years, unless a longer period is otherwise determined by the  
33 commission to be appropriate;

34       (5) "Earnings test", a mechanism that calculates the achieved  
35 earnings level during the updated test year period to determine if a  
36 rate change should be made as part of the annual true-up, based on any  
37 over- or under-earnings beyond a basis point range above or below the  
38 updated return on equity, subject to the annual rate cap;

39       (6) "Foundational elements", the ratemaking determinations and

40 methods approved or modified by the commission listed under  
41 subsection 2 of section 393.1730, as updated or adjusted consistent with  
42 the processes and mechanisms set forth in sections 393.1700 to 393.1750;

43 (7) "Grow and share", a provision of the CMA mechanism  
44 recognizing significant growth in the gas corporation or its parent  
45 corporation. If such growth occurs and the number of utility customers  
46 acquired by the participating gas corporation is greater than ten  
47 percent of the gas corporation's then current number of customers,  
48 then the performance benchmark of the CMA shall not be reset during  
49 the periodic rate review proceeding for a period of ten years. After  
50 year ten, the benchmark used for the annual true-up shall be reset  
51 based on the updated O&M expense in the then preceding year;

52 (8) "Initiating general rate proceeding", the initial general rate  
53 proceeding required under section 393.1715 to commence the annual  
54 true-up and implement the other provisions of sections 393.1700 to  
55 393.1750;

56 (9) "ISRS", an infrastructure system replacement surcharge  
57 authorized under sections 393.1009 to 393.1015;

58 (10) "Participating gas corporation", a gas corporation that elects  
59 to file an initiating general rate proceeding to update rates using  
60 annual true-up and periodic rate review proceedings under sections  
61 393.1700 to 393.1750;

62 (11) "Performance measurement indicators", service and  
63 operational metrics approved by the commission in the participating  
64 gas corporation's initiating general rate proceeding or periodic rate  
65 review proceeding and utilized in the corporation's subsequent annual  
66 true-up to hold a participating gas corporation accountable for  
67 managing satisfactory levels of performance in key areas, including but  
68 not limited to safety, reliability, customer satisfaction, service, and  
69 operations;

70 (12) "Periodic rate review proceeding", the process described in  
71 section 393.1730 to review and, if necessary and appropriate, revise  
72 foundational elements used to establish rates in the annual true-up;

73 (13) "Revenue requirement", the amount of revenues to be in  
74 effect for the next annual period, as calculated in the annual true-up,  
75 including any adjustments resulting from application of the earnings  
76 test, subject to the annual rate cap, and any adjustment resulting from

77 the application of the CMA, plus any adjustment resulting from the  
78 operation of the revenue stabilization mechanism;

79 (14) "Revenue stabilization mechanism" or "RSM", a mechanism  
80 that adjusts rates as part of the annual true-up to prevent an over- or  
81 under-recovery of authorized distribution revenues due to changes in  
82 usage by the participating gas corporation's residential customers and  
83 those non-residential customers with annual usage equivalent to, or  
84 less than, twenty thousand decatherms;

85 (15) "Updated cost of capital", a calculation used to set rates in  
86 the annual true-up for the following annual period. "Updated cost of  
87 capital" shall be the product of the updated rate base and the ending  
88 pre-tax weighted average cost of capital of the participating gas  
89 corporation, based on the updated return on equity and the updated  
90 interest rate;

91 (16) "Updated distribution revenues", the distribution-related  
92 revenues, annualized for changes in customer levels. Such revenues  
93 shall reflect amounts billed by the participating gas corporation during  
94 the updated test year, as adjusted to reflect the annualized revenues of  
95 the participating gas corporation's then effective ISRS, and accruals  
96 booked resulting from the application of the revenue stabilization  
97 mechanism, but excluding revenues accounted for through the  
98 participating gas corporation's purchased gas adjustment and actual  
99 cost adjustment;

100 (17) "Updated ineligible expenses", the updated test year  
101 operations and maintenance expenses of the same kind and character  
102 as those commonly disallowed by the commission in the participating  
103 gas corporation's initiating general rate proceeding or periodic rate  
104 review proceeding. Such ineligible expenses shall be excluded from the  
105 rates established in any annual true-up unless or until a reviewing  
106 court or the commission subsequently determines that such costs were  
107 properly includable in rates;

108 (18) "Updated interest rate", the weighted average interest rate  
109 for the participating gas corporation's long term debt and preferred  
110 stock outstanding as of the end of the updated test year which is used  
111 to determine the updated cost of capital for purposes of setting rates  
112 in the annual true-up;

113 (19) "Updated operations and maintenance expense" or "updated

114 O&M expense", the normalized and annualized distribution operations  
115 and maintenance expense incurred by the participating gas corporation  
116 during the updated test year, which shall be calculated by reflecting  
117 the normalized and annualized net dollar amount in FERC Accounts  
118 700 through 950 "Operation Expenses", less any updated ineligible  
119 expenses in such accounts. Such updated O&M expense shall be used  
120 for determining the participating gas corporation's performance under  
121 the cost management accountability mechanism and making any  
122 resulting rate adjustment as part of the corporation's annual true-up;

123 (20) "Updated other expenses", the normalized and annualized  
124 depreciation and amortization expense, as well as all federal, state and  
125 local taxes, other than gross-receipts, sales and other similar pass-  
126 through taxes;

127 (21) "Updated rate base", the ending updated test year balances  
128 for the participating gas corporation's investments in net utility  
129 property, plant and equipment, including reset ISRS investment  
130 amounts, adjusted for related accumulated deferred income taxes, plus  
131 cash working capital and working capital, as adjusted consistent with  
132 the methodology established for the participating gas corporation in its  
133 initiating general rate proceeding or periodic rate review proceeding,  
134 plus the ending balance of any cost stabilization reserve amount. The  
135 updated rate base shall exclude investments being recovered through  
136 the participating gas corporation's purchased gas adjustment and  
137 actual cost adjustment;

138 (22) "Updated return on equity", the return on equity authorized  
139 for the participating gas corporation in its initiating general rate  
140 proceeding or periodic rate review proceeding, adjusted each year in  
141 the annual true-up for results of the performance measurement  
142 indicators and capital market changes, reflected in long-term United  
143 States Treasury Bond yield rates;

144 (23) "Updated test year", the historic annual period between the  
145 effective dates of each annual true-up, which is used as the beginning  
146 and ending point for establishing the revenue requirement in the  
147 annual true-up process.

393.1715. 1. A gas corporation may elect to become a  
2 participating gas corporation by filing with the commission an  
3 initiating general rate proceeding in which it will provide notice of its



4 election to participate in the update process established under sections  
5 393.1700 to 393.1750, including an initiating general rate proceeding, an  
6 annual true-up, and a periodic rate review proceeding at the conclusion  
7 of every third annual true-up. Such initiating general rate proceeding  
8 shall be conducted in accordance with the procedures and  
9 requirements established by the commission for general rate  
10 proceedings. The commission shall, with the assistance of the parties  
11 to the proceeding, prepare and approve a supplement to the detailed  
12 reconciliation required to be filed under subsection 4 of section 386.420,  
13 which shall include any additional information required for the  
14 participating gas corporation's periodic rate review proceeding, set  
15 forth the foundational elements used in calculating rates for the annual  
16 true-up.

17 2. If the gas corporation has had new rates become effective in  
18 the past two years as a result of a general rate proceeding, then the  
19 commission shall, upon the filing of a notice by the gas corporation  
20 requesting such action, conduct a proceeding that shall serve as the gas  
21 corporation's initiating general rate proceeding. Such a proceeding  
22 shall only consider and determine the foundational elements of the  
23 periodic rate review proceeding that were not otherwise identified by  
24 agreement or by a commission order in the general rate  
25 proceeding. Such proceeding shall be conducted and concluded within  
26 five months and shall not result in any change in rates.

393.1720. 1. As part of the initiating general rate proceeding, the  
2 commission shall approve a revenue stabilization mechanism for a  
3 participating gas corporation to address the over- or under-recovery of  
4 revenue due to weather and conservation-related changes in usage by  
5 residential customers and non-residential customers with annual usage  
6 equivalent to, or less than, twenty thousand decatherms. The  
7 adjustment shall utilize a deferral account, with interest applied at the  
8 participating gas corporation's short term cost of debt, to track  
9 excessive or deficient revenue due to a change in the assumed  
10 commodity use per customer established in the periodic rate review  
11 proceeding. Such deferral account shall amortize the difference on an  
12 earnings-neutral basis and be excluded from the earnings test. No  
13 adjustment shall be made for a variance in the determinants based on  
14 number of customers.

15           2. Rates shall be adjusted by the amount necessary to return to,  
16 or recover from, customers over the subsequent twelve-month period  
17 the difference between the per customer revenues actually billed by the  
18 gas corporation during the most recent updated test year for the  
19 customers identified in subsection 1 of this section, and the per  
20 customer revenues authorized in the participating gas corporation's  
21 initiating general rate proceeding or periodic rate review proceeding  
22 for such customers. The billing determinants used to set rates for such  
23 customers in the initiating general rate proceeding or periodic rate  
24 review proceeding shall be compared to the billing determinants  
25 realized during the updated test year for those same customers to  
26 determine the amount of the necessary adjustment. Revenue variations  
27 accounted and adjusted for in the participating gas corporation's  
28 purchased gas adjustment, actual cost adjustment, and ISRS shall not  
29 be considered.

          393.1725. 1. At least forty-five days prior to the end of each  
2 updated test year, the participating gas corporation shall file tariffs,  
3 rate schedules, and minimum filing requirements, including full and  
4 complete schedules and supporting documentation, to be used to  
5 establish and allocate the revenue requirement to be reflected in rates  
6 in the corporation's annual true-up. Any rate changes resulting from  
7 such filing shall be placed into effect on an interim basis on the date  
8 following the end of the current updated test year, subject to refund.

9           2. The participating gas corporation's annual true-up filing shall  
10 be based upon the most recent three quarters of information on the  
11 participating gas corporation's books and a pro forma forecast for the  
12 remaining quarter. Such forecast shall be of sufficient line item detail  
13 to permit adequate review by commission staff, and updated actual  
14 results shall be filed at least thirty days before the commission staff's  
15 recommendation is due. Any supporting information that is  
16 proprietary or confidential may be submitted on a confidential basis  
17 under the commission's rules governing such matters. The  
18 participating gas corporation shall also submit with the filing  
19 supporting accounting schedules showing how the revenue requirement  
20 was calculated in accordance with the requirements of this section and  
21 the foundational elements approved in the most recently concluded  
22 periodic rate review proceeding. Minimum filing requirements shall

23 include:

24 (1) A full and complete set of financial reports for the  
25 participating gas corporation's regulated Missouri utility operations for  
26 the updated test year as such financial reports are finalized based on  
27 actual results, including the income statement, balance sheet, and cash  
28 flow statement with line-item detail matching the level of the FERC  
29 Form 2 or the annual distribution utility report provided to the  
30 commission. The financials should be adjusted to reflect the  
31 application of the foundational elements approved in the periodic rate  
32 review proceeding;

33 (2) Updated regulatory assets and liabilities and cost  
34 stabilization reserve amounts, along with full and complete schedules  
35 of ending balance of each regulatory asset or liability, whether rate  
36 base treatment is afforded, and the annual amortization amount to  
37 include in rates;

38 (3) Updated rate base;

39 (4) A full and complete accounting and description of updated  
40 ineligible operating expenses that match the category or type of  
41 ineligible operating expenses defined in the periodic rate review  
42 proceeding;

43 (5) A full and complete set of cost of service schedules normally  
44 provided in a general rate proceeding along with any detailed  
45 schedules used to annualize, normalize, or otherwise adjust each  
46 updated distribution revenue, updated O&M expense, updated other  
47 expense, and updated cost of capital item for ratemaking purposes;

48 (6) A full and complete schedule for the earnings test performed  
49 using the schedules and amounts prepared under this subdivision. If  
50 the return achieved in the updated test year exceeds or falls below a  
51 range of fifty percentage points of the updated return on equity, such  
52 test shall determine the increase or decrease to the revenue  
53 requirement necessary to bring the return back to the updated return  
54 on equity, subject to the annual rate cap. The updated return on equity  
55 shall first apply adjustments based on the results of the performance  
56 measurement indicators and capital market changes as follows:

57 (a) Performance measurement indicator adjustments shall  
58 compare performance achieved during the updated test year for each  
59 metric to the benchmark range of expected performance approved in

60 the most recent periodic rate review proceeding. For each instance in  
61 which the participating gas corporation's performance exceeds the  
62 benchmark range of performance for the metric, five percentage points  
63 shall be added to the updated return on equity used for the earnings  
64 test in the current annual true-up. For each instance in which the  
65 participating gas corporation's performance falls below the benchmark  
66 range of performance, five percentage points shall be subtracted from  
67 the updated return on equity used for the earnings test in the current  
68 annual true-up. No change in the updated return on equity shall be  
69 made for a performance level that falls within the benchmark  
70 performance range. To the extent the participating gas corporation's  
71 performance in relation to a specific metric was adversely affected  
72 during the updated test year by significant changes in its operational  
73 systems or processes done to enhance the quality of utility service, or  
74 by extraordinary events beyond the participating gas corporation's  
75 control, then no adjustment for that metric shall be made to the  
76 updated return on equity;

77 (b) The updated return on equity used for the earnings test in  
78 the current annual true-up shall be adjusted for capital market changes  
79 by comparing the starting benchmark capital market rate determined  
80 in the initiating general rate proceeding or periodic rate review  
81 proceeding to any increase or decrease in the twelve-month average of  
82 the thirty-year United States Treasury Bond yield during the applicable  
83 updated test year, and the difference shall be applied to adjust the  
84 updated return on equity;

85 (7) A full and complete calculation of the CMA, comparing  
86 achieved updated O&M expense during the updated test year to the  
87 performance benchmark O&M expense level determined at the  
88 initiating general rate proceeding or the most recently completed  
89 periodic rate review proceeding. An update to that benchmark shall be  
90 applied using an inflation factor equal to the CPI-U factor for the  
91 updated test year, or one percent, whichever is greater. To the extent  
92 the updated O&M expense exceeds or falls below the updated  
93 performance benchmark by more than one percent, then half of that  
94 difference shall be credited or charged to customers. Such CMA credits  
95 or charges shall be excluded from the earnings test, as inclusion of such  
96 would offset the impact of the mechanism. If the grow & share

97 provision is in effect, this benchmark shall not be reset for ten years,  
98 and after year ten the benchmark used for the annual true-up shall be  
99 reset based on the updated O&M expense in the then preceding year.

100 3. The tariffs and rate schedules filed shall reflect the  
101 foundational elements approved in the initiating general rate  
102 proceeding or the most recently concluded periodic rate review  
103 proceeding, including billing determinants and class cost of  
104 service. These shall be used to implement the revenue requirement  
105 resulting from application of the earnings test, as well as the CMA  
106 credit or charge, in accordance with the method approved by the  
107 commission for allocating any increase or decrease between and within  
108 each customer class.

109 4. Within four months of the filing of the annual true-up, the  
110 commission staff shall submit its recommendation verifying that the  
111 revenue requirement was calculated and implemented in conformity  
112 with this section and based on prudently incurred costs or identifying  
113 with specificity any ways in which the update filing was not in  
114 conformity with the requirements of this section.

115 5. If the parties to the annual true-up are unable to jointly  
116 recommend a revenue requirement to the commission within twenty  
117 days of the filing of commission staff's report, the commission shall  
118 establish a procedural schedule so that any contested issues may be  
119 adjudicated by the commission with a report and order resolving such  
120 differences issued within five months after the filing of the commission  
121 staff's report. The commission shall, in such report and order, make  
122 permanent the interim rates filed by the participating gas corporation  
123 to the extent such rates have been calculated in compliance with the  
124 requirements of sections 393.1700 to 393.1750. Any adjustments made  
125 by the commission to the revenue requirement shall be reflected in the  
126 next annual true-up filing made by the participating gas corporation,  
127 subject to judicial review.

128 6. The revenue requirement to be in effect for the next annual  
129 period shall include a rebasing of all ISRS implemented and in effect  
130 during the updated test period. Any gas corporation which has elected  
131 to participate in the annual true-up shall be permitted to make filings  
132 under sections 393.1009 to 393.1015, and shall submit a schedule  
133 reflecting its estimated capital expenditures for ISRS-eligible projects

134 for the following annual period. The annual rate cap, timing, periodic  
135 rate review proceeding requirements, and rebasing ISRS charges set  
136 forth in this subsection shall be substituted for any similar rate caps,  
137 ISRS rebasing, or general rate proceeding requirements under sections  
138 393.1009 to 393.1015.

139 7. Any annual rate adjustment resulting from the application of  
140 the earnings test shall not, when combined with any ISRS charges reset  
141 in the annual true-up during the same annual period, exceed an annual  
142 increase to the revenue requirement amount equal to three and one  
143 half percent of the prior year's Missouri gross jurisdictional revenues.  
144 In addition to the rate adjustment, the gas corporation shall be  
145 permitted to collect any applicable gross receipts tax, sales tax, or  
146 other similar pass-through taxes, and such taxes shall not be counted  
147 against the annual rate cap. Any costs not recovered as a result of the  
148 annual rate cap limitation on rate adjustments may be deferred, at a  
149 carrying cost each month equal to the participating gas corporation's  
150 net of tax, long-term cost of capital, for recovery in a subsequent year's  
151 annual true-up or periodic rate review proceeding.

393.1730. 1. Following the conclusion of the third annual true-up,  
2 and at conclusion of each third annual true-up thereafter, the  
3 participating gas corporation shall file a periodic rate review  
4 proceeding. Upon receiving the participating gas corporation's filing,  
5 the commission shall review the participating gas corporation's  
6 positions and documentation, allow interested stakeholders to present  
7 their own positions and evidence on such matters, and issue an order  
8 presenting its determinations and findings on each item within five  
9 months of the filing date of the periodic rate review proceeding. Such  
10 determinations shall be used to set rates in subsequent annual true-ups,  
11 subject to the right of the participating gas corporation and other  
12 parties to seek judicial review of the determinations in accordance  
13 with applicable law. The existence of a judicial review proceeding shall  
14 not preclude a gas corporation from filing, or the commission from  
15 processing, any subsequent initiating general rate proceeding, annual  
16 true-up, or periodic rate review proceeding.

17 2. The periodic rate review filing shall be made at least six  
18 months prior to the participating gas corporation's next annual true-up  
19 filing, and shall include proposed positions and supporting

20 **documentation on each of the following items:**

21 **(1) A full and complete description of the calculation methods to**  
22 **be used to determine the cash working capital requirement, which shall**  
23 **specify the revenue and expense lag for each revenue and expense item**  
24 **to be considered in the establishing such revenue requirement**  
25 **component in the annual true-up;**

26 **(2) A full and complete description of the calculation methods to**  
27 **be used to determine working capital items, including regulatory assets**  
28 **or liabilities receiving rate base treatment, as well as customer**  
29 **deposits, contributions in aid of construction, other investments**  
30 **required for business purposes, such as materials and supplies,**  
31 **inventories, and prepaid items;**

32 **(3) A full and complete description of each regulatory asset or**  
33 **liability to be included in rates, including the ending balance of each**  
34 **regulatory asset or liability, whether rate base treatment is afforded in**  
35 **working capital, and the annual amortization amount to be included in**  
36 **rates in the annual true-up;**

37 **(4) A full and complete description of each item in the cost**  
38 **stabilization reserve, including items proposed to be included in the**  
39 **reserve. Such description shall include the ending balance of each**  
40 **regulatory asset or liability, whether rate base treatment is afforded,**  
41 **and the annual amortization amount to include in rates in the annual**  
42 **true-up;**

43 **(5) A full and complete description of the weighted capital**  
44 **structure to be included in rates in the annual true-up, which shall**  
45 **include the weighting used for each component consistent with the**  
46 **actual capitalization of the participating gas corporation, provided that**  
47 **the participating gas corporation's equity component is no less than**  
48 **forty percent and no more than sixty percent of its total capital**  
49 **structure and is within ten percentage points of the equity component**  
50 **of its parent corporation's capital structure, if any;**

51 **(6) A specification of the return on equity to be used to calculate**  
52 **rates, which shall include the starting benchmark capital market rate**  
53 **to use for the annual true-up. This benchmark rate shall be the most**  
54 **recent twelve-month average of the thirty-year United States Treasury**  
55 **Bond yield as published by the Board of Governors of the Federal**  
56 **Reserve System in its weekly H.15 Statistical Release or any successor**

57 publication or, if such yields are no longer published, the yields of the  
58 United States Treasury Bonds then having the longest duration  
59 published by the Board of Governors in its weekly H.15 Statistical  
60 Release or successor publication;

61 (7) A full and complete description of the performance  
62 measurement indicators to be used to measure the participating gas  
63 corporation's performance, and depending on actual results achieved,  
64 potentially adjust the participating gas corporation's updated return  
65 on equity in the annual true-up. Such performance metrics shall be set  
66 by the commission; provided however, that no fewer than four and no  
67 more than six metrics shall be established to be included in rates in the  
68 annual true-up. A benchmark range of acceptable performance shall be  
69 established based on the participating gas corporation's historical  
70 experience in the area measured over the most recent five years, or  
71 shorter period if consistent information is not available, and such  
72 range shall be reasonably achievable. Each metric shall be assigned a  
73 value of five percentage points, and performance levels above or below  
74 the benchmark range shall be used to increase or decrease,  
75 respectively, the subsequent updated return on equity;

76 (8) The defined performance benchmark cost level for O&M  
77 expense that shall be used for the CMA mechanism for the subsequent  
78 annual true-ups to compare against the updated O&M expense. Such  
79 benchmark shall be set based on the updated O&M expense in the then  
80 concluding updated test year, subject to the grow & share provision of  
81 the CMA. If the grow & share provision is in effect, the performance  
82 benchmark of the CMA shall not be reset during the periodic rate  
83 review proceeding for a period of ten years;

84 (9) A full and complete description, including the FERC  
85 account(s), of the categories and types of ineligible operating expenses  
86 to be excluded from rates in the annual true-up;

87 (10) A full and complete description of the methodologies to be  
88 used to allocate joint and common costs included in rates between the  
89 participating gas corporation and its affiliates to the extent the  
90 methodologies differ from those in the commission-approved cost  
91 allocation manual;

92 (11) A full and complete identification of the billing determinants  
93 to be used to establish rates, for use in the annual true-up and revenue



94 stabilization mechanism processes;

95 (12) A full and complete identification of the class cost of service  
96 method to be used to allocate costs between and within each customer  
97 class, including the rate design to be used for each class, together with  
98 a specification of the method to be used to allocate any increase or  
99 decrease in revenue requirement for the annual true-up;

100 (13) A full and complete identification of the depreciation rates  
101 to be used to establish rates included in the annual true-up; and

102 (14) A full and complete set of templates to be used for the  
103 surveillance reports that will be submitted on a quarterly basis to  
104 report current operating expenses, rate base, revenues, and  
105 performance metrics used in the annual true-up. Subject to normal  
106 commission discovery procedures, the participating gas corporation  
107 shall, as requested by the commission staff, provide supporting  
108 information for the financial, operational, and accounting results  
109 reflected in the surveillance reports.

393.1735. 1. Within six months of the effective date of sections  
2 393.1700 to 393.1750, any participating gas corporation may file, and the  
3 commission shall approve, tariffs authorizing programs designed to  
4 retain or attract businesses, jobs, and investment within the state of  
5 Missouri. Such tariffs shall include provisions that permit the  
6 participating gas corporation to provide discounted rates and charges  
7 for utility service as necessary to retain or attract such customer or  
8 customers, provided that the discounted rates or charges are sufficient  
9 to:

10 (1) Recover the depreciation, property tax, and carrying cost of  
11 any incremental investment made by the participating gas corporation  
12 to retain or attract such customer or customers;

13 (2) Recover the incremental variable costs incurred to serve such  
14 customer or customers;

15 (3) Make some positive contribution to the participating gas  
16 corporation's fixed costs of serving other customers; and

17 (4) Permit the participating gas corporation to provide long-term  
18 financing for the up-front cost of extending gas service to customers or  
19 residential or commercial developments with such costs to be recovered  
20 through a surcharge of no more than ten years on the rates paid by  
21 those customers benefitting from the extension of gas service.

22           **2. The rates approved by the commission during the annual true-**  
23 **up shall reflect the actual annualized revenues being received under**  
24 **the discounted rate.**

**393.1740. A participating gas corporation may voluntarily**  
2 **terminate its participation in the update process at the conclusion of**  
3 **any updated test year. Upon termination, whether such termination**  
4 **occurs by operation of law, by voluntary action of a participating gas**  
5 **corporation, or for any other reason, the then current rates established**  
6 **under this section shall remain in effect until such time as new rates**  
7 **are set under section 393.150, subject to any adjustment that may be**  
8 **made to such rates based on the commission staff's audit of the last**  
9 **updated test year.**

**393.1745. No later than December 31, 2025, the commission shall**  
2 **prepare and file with the general assembly a report on the impact of**  
3 **sections 393.1700 to 393.1750 on participating gas corporations and**  
4 **their customers. Participating gas corporations shall cooperate in good**  
5 **faith to provide the data necessary for the preparation of the report**  
6 **required by this section.**

**393.1750. The commission shall have the authority to promulgate**  
2 **rules and regulations to implement the provisions of sections 393.1700**  
3 **to 393.1745. Any rule or portion of a rule, as that term is defined in**  
4 **section 536.010 that is created under the authority delegated in this**  
5 **section shall become effective only if it complies with and is subject to**  
6 **all of the provisions of chapter 536, and, if applicable, section**  
7 **536.028. This section and chapter 536 are nonseverable and if any of**  
8 **the powers vested with the general assembly pursuant to chapter 536,**  
9 **to review, to delay the effective date, or to disapprove and annul a rule**  
10 **are subsequently held unconstitutional, then the grant of rulemaking**  
11 **authority and any rule proposed or adopted after August 28, 2017, shall**  
12 **be invalid and void.**

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