

SENATE SUBSTITUTE
FOR
SENATE BILL NO. 564

AN ACT

To repeal section 386.390, RSMo, and to enact in lieu thereof six new sections relating to public utilities.

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

1 Section A. Section 386.390, RSMo, is repealed and six new
2 sections enacted in lieu thereof, to be known as sections
3 386.390, 393.1275, 393.1400, 393.1640, 393.1650, and 393.1655, to
4 read as follows:

5 386.390. 1. Complaint may be made by the commission of its
6 own motion, or by the public counsel or any corporation or
7 person, chamber of commerce, board of trade, or any civic,
8 commercial, mercantile, traffic, agricultural or manufacturing
9 association or organization, or any body politic or municipal
10 corporation, by petition or complaint in writing, setting forth
11 any act or thing done or omitted to be done by any corporation,
12 person or public utility[, including any rule, regulation or
13 charge heretofore established or fixed by or for any corporation,
14 person or public utility,] in violation, or claimed to be in
15 violation, of any provision of law subject to the commission's
16 authority, [or] of any rule promulgated by the commission, of any
17 utility tariff, or of any order or decision of the commission;
18 provided, that no complaint shall be entertained by the
19 commission, except upon its own motion, as to the reasonableness

1 of any rates or charges of any gas, electrical, water, sewer, or
2 telephone corporation, unless the same be signed by the public
3 counsel or the mayor or the president or chairman of the board of
4 aldermen or a majority of the council, commission or other
5 legislative body of any city, town, village or county, within
6 which the alleged violation occurred, or not less than
7 twenty-five consumers or purchasers, or prospective consumers or
8 purchasers, of such gas, electricity, water, sewer or telephone
9 service.

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

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

22 4. Service in all hearings, investigations and proceedings
23 pending before the commission may be made upon any person upon
24 whom summons may be served in accordance with the provisions of
25 the code of civil procedure of this state, and may be made
26 personally or by mailing in a sealed envelope with postage
27 prepaid.

28 5. The commission shall fix the time when and the place

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

5 393.1275. 1. For purposes of this section, the following
6 terms shall mean:

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

8 (2) "Electrical corporation", the same as defined in
9 section 386.020, but shall not include an electrical corporation
10 as described in subsection 2 of section 393.110;

11 (3) "Rate base cutoff date", the date rate base additions
12 are accounted for in a general rate proceeding. In the absence
13 of a commission order that specifies the rate base cutoff date,
14 such date as reflected in any jointly proposed procedural
15 schedule submitted by the parties in the applicable general rate
16 proceeding, or as otherwise agreed to by such parties, shall be
17 used;

18 (4) "Cyber and physical security expense", operations and
19 maintenance expense incurred to protect the reliability and
20 security of systems, software, equipment, and facilities
21 connected to or controlling the electric system against physical
22 or cyber-security threats, including but not limited to,
23 generating stations, substations, and control centers.

24 2. On and after the date an electrical corporation files a
25 notice under subsection 4 of this section, the electrical
26 corporation shall defer to a regulatory asset or liability
27 account any difference in the prudently incurred uncapitalized
28 state and local property taxes actually incurred, and the

1 uncapitalized state and local property taxes used to determine
2 the electrical corporation's revenue requirement in its most
3 recently completed general rate proceeding. If the notice filed
4 under subsection 4 of this section is filed on a day other than
5 January first, the dollar amount of taxes to be deferred for the
6 calendar year during which such notice was given shall be equal
7 to such difference multiplied by a fraction, the numerator of
8 which is the number of days remaining in that calendar year after
9 the date such notice is filed, and the denominator of which is
10 the number of calendar days in that year. Such taxes used to
11 determine the electrical corporation's revenue requirement in its
12 last general rate proceeding shall be the amount of such taxes
13 recorded on the electrical corporation's books for the twelve
14 months ending on the rate base cutoff date in the electrical
15 corporation's most recently completed general rate proceeding
16 unless a different amount was used to set such revenue
17 requirement as determined by the commission in its order
18 resolving such proceeding or through a commission order approving
19 a settlement respecting such taxes. The regulatory asset or
20 liability account balances shall be included in the retail
21 revenue requirement used to set rates through an amortization
22 over a reasonable period in such corporation's subsequent general
23 rate proceedings, without any offset, reduction, or adjustment
24 based on consideration of any other factor. The commission shall
25 also adjust the rate base used to establish the retail revenue
26 requirement of such corporation to reflect the unamortized
27 regulatory asset or liability account balances in such general
28 rate proceedings.

1 3. On and after the effective date of rates in an
2 electrical corporation's next general rate proceeding concluding
3 after the effective date of this section, an electrical
4 corporation that has filed a notice under subsection 4 of this
5 section shall defer to a regulatory asset or liability account
6 any difference in the prudently incurred cyber and physical
7 security expense actually incurred and the cyber and physical
8 security expense for such protection used to determine the
9 electrical corporation's revenue requirement in its most recently
10 completed general rate proceeding, provided that the commission
11 shall ensure that such difference to be included in the
12 regulatory asset or liability does not include costs that were
13 included in the sums used to determine the electrical
14 corporation's revenue requirement upon which its base rates are
15 set in a general rate proceeding. The regulatory asset or
16 liability account balances shall be included in the retail
17 revenue requirement used to set rates through an amortization
18 over a reasonable period in such corporation's subsequent general
19 rate proceedings, without any offset, reduction, or adjustment
20 based on consideration of any other factor. The commission shall
21 also adjust the rate base used to establish the retail revenue
22 requirement of such corporation to reflect the unamortized
23 regulatory asset or liability account balances in such general
24 rate proceedings.

25 4. This section shall only apply to an electrical
26 corporation that has filed a notice with the commission of the
27 electrical corporation's election to make the deferrals for which
28 this section provides.

1 393.1400. 1. For purposes of this section, the following
2 terms shall mean:

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

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

7 (3) "Qualifying electric plant", all rate base additions,
8 except rate base additions for new coal-fired generating units,
9 new nuclear generating units, or rate base additions that
10 increase revenues by allowing service to new customer premises;

11 (4) "Rate base cutoff date", the date rate base additions
12 are accounted for in a general rate proceeding. In the absence
13 of a commission order that specifies the rate base cutoff date,
14 such date as reflected in any jointly proposed procedural
15 schedule submitted by the parties in the applicable general rate
16 proceeding, or as otherwise agreed to by such parties, shall be
17 used;

18 (5) "Weighted average cost of capital", the return on rate
19 base used to determine the revenue requirement in the electrical
20 corporation's most recently completed general rate proceeding;
21 provided, that in the absence of a commission determination of
22 the return on rate base within the three-year period prior to the
23 effective date of this section, the weighted average cost of
24 capital shall be determined using the electrical corporation's
25 actual capital structure as of December 31, 2017, excluding
26 short-term debt, the electrical corporation's actual cost of
27 long-term debt and preferred stock as of December 31, 2017, and a
28 cost of common equity of nine and one-half percent.

1 2. (1) Notwithstanding any other provision of chapter 393
2 to the contrary, electrical corporations shall defer to a
3 regulatory asset all depreciation expense and return associated
4 with all qualifying electric plant recorded to plant-in-service
5 on the utility's books commencing on or after the effective date
6 of this section, if the electrical corporation has made the
7 election provided for by subsection 5 of this section by that
8 date, or on the date such election is made if the election is
9 made after the effective date of this section. In each general
10 rate proceeding concluded after the effective date of this
11 section, the balance of the regulatory asset as of the rate base
12 cutoff date shall be included in the electrical corporation's
13 rate base without any offset, reduction, or adjustment based upon
14 consideration of any other factor, other than as provided for in
15 subdivision (2) of this subsection, with the regulatory asset
16 balance arising from deferrals associated with qualifying
17 electric plant placed in service after the rate base cutoff date
18 to be included in rate base in the next general rate proceeding.
19 The expiration of this section shall not affect the continued
20 inclusion in rate base and amortization of regulatory asset
21 balances that arose under this section prior to such expiration.

22 (2) The regulatory asset balances arising under this
23 section shall be adjusted to reflect any prudence disallowances
24 ordered by the commission. The provisions of this section shall
25 not be construed to affect existing law respecting the burdens of
26 production and persuasion in general rate proceedings for rate
27 base additions.

28 (3) Parts of regulatory asset balances created under this

1 section that are not yet being recovered through rates shall
2 include carrying costs at the electrical corporation's weighted
3 average cost of capital, plus applicable federal, state, and
4 local income or excise taxes. Regulatory asset balances arising
5 under this section and included in rate base shall be recovered
6 in rates through a twenty-year amortization beginning on the date
7 new rates reflecting such amortization take effect.

8 3. (1) Depreciation expense deferred under this section
9 shall account for all qualifying electric plant placed into
10 service less retirements of plant replaced by such qualifying
11 electric plant;

12 (2) Return deferred under this section shall be determined
13 using the weighted average cost of capital applied to the change
14 in plant-related rate base caused by the qualifying electric
15 plant, plus applicable federal, state, and local income or excise
16 taxes. In determining the return deferred, the electrical
17 corporation shall account for changes in all plant-related
18 accumulated deferred income taxes and changes in accumulated
19 depreciation, excluding retirements.

20 4. Beginning February 28, 2019, and by each February
21 twenty-eighth thereafter while the electrical corporation is
22 allowed to make the deferrals provided for by subsection 2 of
23 this section, electrical corporations that defer depreciation
24 expense and return authorized under this section shall submit to
25 the commission a five-year capital investment plan setting forth
26 the general categories of capital expenditures the electrical
27 corporation will pursue in furtherance of replacing, modernizing,
28 and securing its infrastructure. The plan shall also include a

1 specific capital investment plan for the first year of the five-
2 year plan consistent with the level of specificity used for
3 annual capital budgeting purposes. Project specific information
4 shall not be included for the five-year period covered by the
5 plan. Within thirty days of the filing of any capital investment
6 plan or annual update to an existing plan, the electrical
7 corporation shall host a public stakeholder meeting to answer
8 questions and receive feedback about the plan. After feedback is
9 received, the electrical corporation shall file a notice with the
10 commission of any modifications to the capital investment plan it
11 has accepted. Changes to the plan, its implementation, or the
12 level of investments made shall not constitute evidence of
13 imprudence of the investments made under such plan. The
14 submission of a capital investment plan under this section shall
15 not affect in any way the commission's authority with respect to
16 the grant or denial of a certificate of convenience and necessity
17 under section 393.170.

18 5. This section shall only apply to any electrical
19 corporation that has filed a notice with the commission of the
20 electrical corporation's election to make the deferrals for which
21 this section provides. An electrical corporation's election
22 shall allow it to make the deferrals provided for by subsection 2
23 of this section until December 31, 2023, unless the electrical
24 corporation requests and the commission approves the continuation
25 of such deferrals beyond that date and approves continuation of
26 the discounts authorized by section 393.1640 beyond that date as
27 hereinafter provided. An electrical corporation that wishes to
28 continue to make the deferrals provided for by subsection 2 of

1 this section from January 1, 2024, through December 31, 2028,
2 shall obtain the commission's approval to do so, shall be subject
3 to the compound annual growth rate limitations set forth under
4 section 393.1655, and shall also obtain the commission's approval
5 to continue to provide the discounts authorized by section
6 393.1640 in a commission order issued on or before December 31,
7 2023. The commission shall have the authority to grant or deny
8 such approval but shall not be authorized to condition such
9 approval or otherwise modify the deferrals authorized by
10 subsection 2 of this section or the discounts authorized by
11 section 393.1640. Failure to obtain such commission approval
12 shall not affect deferrals made through December 31, 2023, or the
13 regulatory and ratemaking treatment of the regulatory assets
14 arising from such deferrals as provided for by this section.

15 6. This section shall expire on December 31, 2028, except
16 that the amortization of the regulatory asset balances arising
17 under this section shall continue to be reflected in the
18 electrical corporation's rates and remaining regulatory asset
19 balances shall be included in the electrical corporation's rate
20 base.

21 393.1640. 1. Subject to the limitations provided for in
22 subsection 2 of this section, and upon proper application by an
23 eligible customer prior to public announcement of a growth
24 project, a new or existing account meeting the following criteria
25 shall be considered for qualification for the discount set forth
26 in this subsection if:

27 (1) The customer adds incremental load, net of any
28 offsetting load reductions due to the termination of other

1 accounts of the customer or an affiliate of the customer within
2 twelve months prior to the commencement of service to the new
3 load, with average monthly demand that is reasonably projected to
4 be at least five hundred kilowatts with a load factor of at least
5 fifty-five percent within two years after the date the
6 application is submitted; and

7 (2) The customer receives local, regional, or state
8 economic development incentives in conjunction with the
9 incremental load.

10
11 The discount shall be a percentage applied to all base rate
12 components of the bill. The percentage shall be fixed for each
13 year of service under the discount for a period of up to five
14 years. The average of the annual discount percentages shall
15 equal forty percent and shall not be less than thirty percent nor
16 more than fifty percent in any year. The discount shall be
17 applied to such incremental load from the date when the meter has
18 been permanently set until the date that such incremental load no
19 longer meets the criteria required to qualify for the discount,
20 as determined under the provisions of subsection 2 of this
21 section. An eligible customer shall also receive a ten percent
22 discount of all base rate components of the bill applied to such
23 incremental load for one year after the initial discount period
24 ends if the electrical corporation determines that the customer
25 is taking service from an under-utilized circuit. In no event
26 shall a customer receive a discount under this subsection after
27 the date this section expires. The electrical corporation may
28 include in its tariff additional or alternative terms and

1 conditions to a customer's utilization of the discount, subject
2 to approval of such terms and conditions by the commission. The
3 customer, on forms supplied by the electrical corporation, shall
4 apply for the discount provided for by this subsection at least
5 ninety days prior to the date the customer requests that the
6 incremental demand receive the discounts provided for by this
7 subsection. If the incremental demand is not separately metered,
8 the electrical corporation's determination of the incremental
9 demand shall control.

10 2. In each general rate proceeding concluded after the
11 effective date of this section, the reduced level of revenues
12 arising from the application of discounted rates provided for by
13 subsection 1 of this section shall be allocated to all the
14 electrical corporation's customer classes, including the classes
15 with customers that qualify for discounts under this section.
16 This increase shall be implemented through the application of a
17 uniform percentage adjustment to the revenue requirement
18 responsibility of all customer classes. To qualify for the
19 discounted rates provided for in this section, if incremental
20 load is separately metered, customers shall meet the applicable
21 criteria within twenty-four months after the date the meter is
22 permanently set based on metering data for calendar months
23 thirteen through twenty-four and annually thereafter. If such
24 data indicates that the customer did not meet the criteria for
25 any applicable twelve-month period, it shall thereafter no longer
26 qualify for the discounted rate. The provisions of this section
27 do not supersede or limit the ability of an electrical
28 corporation to continue to utilize economic development or

1 retention tariffs previously approved by the commission that are
2 in effect on the effective date of this section. If, however, a
3 customer is receiving any economic development or retention-
4 related discounts as of the date it would otherwise qualify for a
5 discount provided for by this section, the customer shall agree
6 to relinquish the prior discount concurrently with the date it
7 begins to receive a discount under this section; otherwise, the
8 customer shall not be eligible to receive any discount under this
9 section. Customer demand existing at the time the customer
10 begins to receive discounted rates under this section shall not
11 constitute incremental demand. The discounted rates provided for
12 by this section apply only to base rate components, with the
13 charges or credits arising from any rate adjustment mechanism
14 authorized by law to be applied to customers qualifying for
15 discounted rates under this section in the same manner as such
16 rate adjustments would apply in the absence of this section.

17 3. For purposes of this section, "electrical corporation"
18 shall mean the same as defined in section 386.020, but shall not
19 include an electrical corporation as described in subsection 2 of
20 section 393.110.

21 4. This section shall expire on December 31, 2028,
22 provided, that unless the electrical corporation has timely
23 obtained the order provided for by subsection 5 of section
24 393.1400, the electrical corporation's customers shall, after
25 December 31, 2023, no longer receive the discounts provided under
26 this section.

27 393.1650. 1. For purposes of this section, the following
28 terms shall mean:

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

3 (2) "Electrical corporation", a corporation with more than
4 one million Missouri retail electric customers in the year in
5 which this section becomes effective and that otherwise meets the
6 definition of "electrical corporation" in section 386.020.

7 2. Electrical corporations shall develop a qualification
8 process and make such process open to all contractors seeking to
9 provide construction and construction-related services for
10 projects on the electrical corporation's distribution system.

11 Contractors shall have the opportunity to register on the
12 electrical corporation's vendor registration site and be
13 evaluated for bid opportunities. Under the qualification
14 process, electrical corporations may specify eligibility
15 requirements typically accepted by the industry, including but
16 not limited to, experience, performance criteria, safety
17 policies, and insurance requirements to be met by any contractor
18 seeking to participate in competitive bidding to provide
19 construction and construction-related services for distribution
20 system projects, and the electrical corporation shall not weight
21 any contractor favorably or unfavorably due to affiliation with a
22 labor organization or union, except if the work is being
23 performed pursuant to a union-only project labor agreement which
24 requires that participating contractors use union represented
25 labor. Contractors that meet the eligibility requirements set by
26 electrical corporations shall be eligible to participate in the
27 competitive bidding process for providing construction and
28 construction-related services for distribution system projects,

1 and the contractor making the lowest and best bid shall be
2 awarded such contract.

3 3. Within thirty days after the effective date of this
4 section, electrical corporations shall file a verified statement
5 with the commission confirming that they have established a
6 qualification process for the competitive bidding of construction
7 and construction-related services for distribution system
8 projects, and that such process conforms with the requirements of
9 this section. The commission shall have the authority to verify
10 the statement to ensure compliance with this section. Whenever
11 the electrical corporation files a general rate proceeding, it
12 shall submit concurrently with its submission of the rate
13 schedules that initiate such general rate proceeding a verified
14 statement confirming that it is using the qualification process
15 for the competitive bidding of construction and construction-
16 related services for distribution system projects required by
17 this section for no less than ten percent of the combined
18 external installation expenditures made by the electrical
19 corporation's operating units in Missouri for construction and
20 construction-related services for distribution system projects,
21 and that such process conforms with the requirements set forth in
22 this section to ensure compliance with this subsection.

23 4. Nothing in this section shall be construed as requiring
24 any electrical corporation to use a qualified contractor or
25 competitive bidding process in the case of an emergency project,
26 or to terminate any existing contract with a contractor prior to
27 its expiration, provided that the use of any pre-existing
28 contract for construction or construction-related services for

1 distribution system projects shall not qualify as fulfilling the
2 ten percent requirement set forth in subsection 3 of this
3 section. For contractors not qualifying through the competitive
4 bid process, the electrical corporation, upon request from the
5 contractor, shall provide information from the process in which
6 the contractor can be informed as to how to be better positioned
7 to qualify for such bid opportunities in the future.

8 5. By December 31, 2020, and annually thereafter, the
9 commission shall submit a report to the general assembly on the
10 effects of this section, including electrical corporation
11 compliance, potential legislative action regarding this section,
12 the costs of constructing distribution system projects prior to
13 the implementation of this section compared to after the
14 implementation of this section, and any other information
15 regarding the processes established under this section that the
16 commission deems necessary.

17 393.1655. 1. This section applies to electrical
18 corporations that have elected to exercise any option under
19 section 393.1275 or 393.1400 and that have more than two hundred
20 thousand Missouri retail customers in the year in which this
21 section becomes effective, and shall continue to apply to such
22 electrical corporation until December 31, 2023, if the commission
23 has not issued an order approving continuation of the deferral
24 authorized by subsection 2 of section 393.1400 and continuation
25 of the discounts authorized by section 393.1640 as authorized by
26 subsection 5 of section 393.1400 with respect to an electrical
27 corporation, or until December 31, 2028, if the commission has
28 issued such an order with respect to an electrical corporation.

1 2. Notwithstanding any other provision of law and except as
2 otherwise provided for by this section, an electrical
3 corporation's base rates shall be held constant for a period
4 starting on the date new base rates were established in the
5 electrical corporation's last general rate proceeding concluded
6 prior to the date the electrical corporation gave notice under
7 either subsection 4 of section 393.1275 or subsection 5 of
8 section 393.1400 and ending on the third anniversary of that
9 date, unless a force majeure event as determined by the
10 commission occurs. Whether a force majeure event has occurred
11 shall be subject to commission review and approval in a general
12 rate proceeding, and shall not preclude the commission from
13 reviewing the prudence of any revenue reductions or costs
14 incurred during any proceeding to set rates. This subsection
15 shall not affect the electrical corporation's ability to adjust
16 its non-base rates during the three-year period provided for in
17 this subsection as authorized by its commission-approved rate
18 adjustment mechanisms arising under sections 386.266, 393.1030,
19 or 393.1075, or as authorized by any other rate adjustment
20 mechanism authorized by law.

21 3. If the difference between (a) the electrical
22 corporation's average overall rate at any point in time while
23 this section applies to the electrical corporation, and (b) the
24 electrical corporation's average overall rate as of the date new
25 base rates are set in the electrical corporation's most recent
26 general rate proceeding concluded prior to the date the
27 electrical corporation gave notice under either subsection 4 of
28 section 393.1275 or subsection 5 of section 393.1400, reflects a

1 compound annual growth rate of more than three percent, the
2 electrical corporation shall establish a regulatory liability in
3 the amounts specified in subsection 4 of this section. The
4 regulatory liability shall be amortized over a reasonable period
5 as determined by the commission. A separate regulatory liability
6 is required for each general rate proceeding covered by this
7 subsection for which the three percent threshold provided by this
8 subsection is exceeded.

9 4. A regulatory liability provided in subsection 3 of this
10 section shall be twenty-five million dollars for an electrical
11 corporation with more than one million Missouri retail customers
12 in the year in which this section becomes effective and six
13 million dollars for an electrical corporation with more than two
14 hundred thousand but not more than one million Missouri retail
15 customers in the year in which this section becomes effective.

16 5. If the difference between (a) the electrical
17 corporation's average overall rate while this section applies to
18 the electrical corporation, and (b) the electrical corporation's
19 average overall rate as of the date new base rates are set in the
20 electrical corporation's most recent general rate proceeding
21 concluded prior to the date the electrical corporation gave
22 notice under either subsection 4 of section 393.1275 or
23 subsection 5 of section 393.1400, reflects a compound annual
24 growth rate of more than three and three-quarters percent, the
25 electrical corporation shall, in addition to establishing the
26 regulatory liability as specified in subsections 3 and 4 of this
27 section, starting with the effective date of its revised base
28 rates that exceed the three and three-quarters percent threshold

1 provided for in this subsection, cease further deferrals under
2 sections 393.1275 and 393.1400, with prior deferrals to be
3 treated as provided in such sections.

4 6. If a change in any rates charged under a rate adjustment
5 mechanism approved by the commission under sections 386.266 and
6 393.1030 would cause an electrical corporation's average overall
7 rate to exceed the compound annual growth rate limitation set
8 forth in subsection 3 of this section, the electrical corporation
9 shall reduce the rates charged under that rate adjustment
10 mechanism in an amount sufficient to ensure that the compound
11 annual growth rate limitation set forth in subsection 3 is not
12 exceeded due to the application of the rate charged under such
13 mechanism and the penalty under subsection 4 is not triggered.
14 Sums not recovered under any such mechanism because of any
15 reduction in rates under such a mechanism pursuant to this
16 subsection shall be deferred to and included in the regulatory
17 asset arising under section 393.1400 or, if applicable, under the
18 regulatory and ratemaking treatment ordered by the commission
19 under subsection 6 of section 393.1400 and subsection 4 of
20 section 393.1640, and recovered through an amortization in base
21 rates in the same manner as deferrals under that section or order
22 are recovered in base rates.

23 7. If the difference between (a) the electrical
24 corporation's class average overall rate while this section
25 applies to the electrical corporation, and (b) the electrical
26 corporation's class average overall rate as of the date rates are
27 set in the electrical corporation's most recent general rate
28 proceeding concluded prior to the date the electrical corporation

1 gave notice under either subsection 4 of section 393.1275 or
2 subsection 5 of section 393.1400, reflects a compound annual
3 growth rate of more than two percent for large power service rate
4 class customers, the class average overall rate shall increase by
5 an amount so that the increase shall equal a compound annual
6 growth rate of two percent over such period for such large power
7 service rate class customers, with the reduced revenues arising
8 from limiting the large power service class average overall rate
9 increase to two percent to be allocated to all the electrical
10 corporation's other customer classes through the application of a
11 uniform percentage adjustment to the revenue requirement
12 responsibility of all the other customer classes.

13 8. For purposes of this section, the following terms shall
14 mean:

15 (1) "Average base rate", a rate calculated by dividing the
16 total retail revenue requirement for all the electrical
17 corporation's rate classes by the total sales volumes stated in
18 kilowatt-hours for all such rate classes used to set rates in the
19 applicable general rate proceeding, exclusive of gross receipts
20 tax, sales tax, and other similar pass-through taxes;

21 (2) "Average overall rate", a rate equal to the sum of the
22 average base rate and the average rider rate;

23 (3) "Average rider rate", a rate calculated by dividing the
24 total of the sums to be recovered from all customer classes under
25 the electrical corporation's rate adjustment mechanisms in place
26 other than a rate adjustment mechanism under section 393.1075 by
27 the total sales volumes stated in kilowatt-hours for all of the
28 electrical corporation's rate classes used to set rates under

1 such rate adjustment mechanisms, exclusive of gross receipts tax,
2 sales tax, and other similar pass-through taxes;

3 (4) "Class average base rate", a rate calculated by
4 dividing the retail revenue requirement from the applicable
5 general rate proceeding that is allocated to the electrical
6 corporation's large power service rate class in that general rate
7 proceeding, by the total sales volumes stated in kilowatt-hours
8 for that class used to set rates in that general rate proceeding,
9 exclusive of gross receipts tax, sales tax, and other similar
10 pass-through taxes;

11 (5) "Class average overall rate", a rate equal to the sum
12 of the class average base rate and the class average rider rate;

13 (6) "Class average rider rate", a rate calculated by
14 dividing the total of the sums allocated for recovery from the
15 large power service rate class under the electrical corporation's
16 rate adjustment mechanisms in place other than a rate adjustment
17 mechanism under section 393.1075 by the total sales volumes
18 stated in kilowatt-hours for all of the electrical corporation's
19 rate classes used to set rates under such rate adjustment
20 mechanisms, exclusive of gross receipts tax, sales tax, and other
21 similar pass-through taxes;

22 (7) "Force majeure event", an event or circumstance that
23 occurs as a result of a weather event, an act of God, war, or
24 terrorism, or other uncontrollable event as determined by the
25 commission that causes a reduction in revenues, an increase in
26 the cost of providing electrical service, or some combination
27 thereof, and the event has an associated fiscal impact on the
28 electrical corporation's operations equal to three percent or

1 greater of the total revenue requirement established in the
2 electrical corporation's last general rate proceeding concluded
3 prior to the date the electrical corporation gave a notice under
4 either subsection 4 of section 393.1275 or subsection 5 of
5 section 393.1400;

6 (8) "Large power service rate class", the rate class of
7 each corporation that requires the highest minimum monthly
8 billing demand of all of the electrical corporation's rate
9 classes in order to qualify as a member of such rate class, and
10 that applies to qualifying customers only if they utilize the
11 electrical corporation's distribution system.