

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1 Section A. Section 386.390, RSMo, is repealed and six new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 5. This section shall expire on December 31, 2028,
2 provided, that unless the electrical corporation has timely
3 obtained the order provided for by subsection 5 of section
4 393.1400, the electrical corporation shall after December 31,
5 2023, no longer be authorized to make the deferrals provided for
6 under this section. Upon the expiration this section, the
7 amortization of the regulatory asset or liability account
8 balances arising under this section shall continue to be
9 reflected in the electrical corporation's rates and remaining
10 regulatory asset or liability account balances shall be included
11 in the electrical corporation's rate base consistent with the
12 ratemaking treatment and amortization previously approved by the
13 commission pursuant to this section.

14 393.1400. 1. For purposes of this section, the following
15 terms shall mean:

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

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

20 (3) "Qualifying electric plant", all rate base additions,
21 except rate base additions for new coal-fired generating units,
22 new nuclear generating units, new natural gas units, or rate base
23 additions that increase revenues by allowing service to new
24 customer premises;

25 (4) "Rate base cutoff date", the date rate base additions
26 are accounted for in a general rate proceeding. In the absence
27 of a commission order that specifies the rate base cutoff date,
28 such date as reflected in any jointly proposed procedural

1 schedule submitted by the parties in the applicable general rate
2 proceeding, or as otherwise agreed to by such parties, shall be
3 used;

4 (5) "Weighted average cost of capital", the return on rate
5 base used to determine the revenue requirement in the electrical
6 corporation's most recently completed general rate proceeding;
7 provided, that in the absence of a commission determination of
8 the return on rate base within the three-year period prior to the
9 effective date of this section, the weighted average cost of
10 capital shall be determined using the electrical corporation's
11 actual capital structure as of December 31, 2017, excluding
12 short-term debt, the electrical corporation's actual cost of
13 long-term debt and preferred stock as of December 31, 2017, and a
14 cost of common equity of nine and one-half percent.

15 2. (1) Notwithstanding any other provision of chapter 393
16 to the contrary, electrical corporations shall defer to a
17 regulatory asset all depreciation expense and return associated
18 with all qualifying electric plant recorded to plant-in-service
19 on the utility's books commencing on or after the effective date
20 of this section, if the electrical corporation has made the
21 election provided for by subsection 5 of this section by that
22 date, or on the date such election is made if the election is
23 made after the effective date of this section. In each general
24 rate proceeding concluded after the effective date of this
25 section, the balance of the regulatory asset as of the rate base
26 cutoff date shall be included in the electrical corporation's
27 rate base without any offset, reduction, or adjustment based upon
28 consideration of any other factor, other than as provided for in

1 subdivision (2) of this subsection, with the regulatory asset
2 balance arising from deferrals associated with qualifying
3 electric plant placed in service after the rate base cutoff date
4 to be included in rate base in the next general rate proceeding.
5 The expiration of this section shall not affect the continued
6 inclusion in rate base and amortization of regulatory asset
7 balances that arose under this section prior to such expiration.

8 (2) The regulatory asset balances arising under this
9 section shall be adjusted to reflect any prudence disallowances
10 ordered by the commission. The provisions of this section shall
11 not be construed to affect existing law respecting the burdens of
12 production and persuasion in general rate proceedings for rate
13 base additions.

14 (3) Parts of regulatory asset balances created under this
15 section that are not yet being recovered through rates shall
16 include carrying costs at the electrical corporation's weighted
17 average cost of capital, plus applicable federal, state, and
18 local income or excise taxes. Regulatory asset balances arising
19 under this section and included in rate base shall be recovered
20 in rates through a twenty-year amortization beginning on the date
21 new rates reflecting such amortization take effect.

22 3. (1) Depreciation expense deferred under this section
23 shall account for all qualifying electric plant placed into
24 service less retirements of plant replaced by such qualifying
25 electric plant.

26 (2) Return deferred under this section shall be determined
27 using the weighted average cost of capital applied to the change
28 in plant-related rate base caused by the qualifying electric

1 plant, plus applicable federal, state, and local income or excise
2 taxes. In determining the return deferred, the electrical
3 corporation shall account for changes in all plant-related
4 accumulated deferred income taxes and changes in accumulated
5 depreciation, excluding retirements.

6 4. Beginning February 28, 2019, and by each February
7 twenty-eighth thereafter while the electrical corporation is
8 allowed to make the deferrals provided for by subsection 2 of
9 this section, electrical corporations that defer depreciation
10 expense and return authorized under this section shall submit to
11 the commission a five-year capital investment plan setting forth
12 the general categories of capital expenditures the electrical
13 corporation will pursue in furtherance of replacing, modernizing,
14 and securing its infrastructure. The plan shall also include a
15 specific capital investment plan for the first year of the five-
16 year plan consistent with the level of specificity used for
17 annual capital budgeting purposes. Project specific information
18 shall not be included for the five-year period covered by the
19 plan. Within thirty days of the filing of any capital investment
20 plan or annual update to an existing plan, the electrical
21 corporation shall host a public stakeholder meeting to answer
22 questions and receive feedback about the plan. After feedback is
23 received, the electrical corporation shall file a notice with the
24 commission of any modifications to the capital investment plan it
25 has accepted. Changes to the plan, its implementation, or the
26 level of investments made shall not constitute evidence of
27 imprudence of the investments made under such plan. The
28 submission of a capital investment plan under this section shall

1 not affect in any way the commission's authority with respect to
2 the grant or denial of a certificate of convenience and necessity
3 under section 393.170. By February twenty-eighth following each
4 year in which the electrical corporation submits a capital
5 investment plan, the electrical corporation shall submit a report
6 to the commission detailing actual capital investments made the
7 previous year.

8 5. This section shall only apply to any electrical
9 corporation that has filed a notice with the commission of the
10 electrical corporation's election to make the deferrals for which
11 this section provides. An electrical corporation's election
12 shall allow it to make the deferrals provided for by subsection 2
13 of this section until December 31, 2023, unless the electrical
14 corporation requests and the commission approves the continuation
15 of such deferrals beyond that date and approves continuation of
16 the discounts authorized by section 393.1640 beyond that date as
17 hereinafter provided. An electrical corporation that wishes to
18 continue to make the deferrals provided for by subsection 2 of
19 this section and section 393.1275 from January 1, 2024, through
20 December 31, 2028, shall obtain the commission's approval to do
21 so, shall be subject to the compound annual growth rate
22 limitations set forth under section 393.1655, and shall also
23 obtain the commission's approval to continue to provide the
24 discounts authorized by section 393.1640 in a commission order
25 issued on or before December 31, 2023. The commission shall have
26 the authority to grant or deny such approval based upon the
27 commission's evaluation of the costs and benefits of such
28 continuation to electrical corporations and consumers, but shall

1 not be authorized to condition such approval or otherwise modify
2 the deferrals authorized by subsection 2 of this section, section
3 393.1275, or the discounts authorized by section 393.1640.
4 Failure to obtain such commission approval shall not affect
5 deferrals made through December 31, 2023, or the regulatory and
6 ratemaking treatment of the regulatory assets arising from such
7 deferrals as provided for by this section.

8 6. This section shall expire on December 31, 2028, except
9 that the amortization of the regulatory asset balances arising
10 under this section shall continue to be reflected in the
11 electrical corporation's rates and remaining regulatory asset
12 balances shall be included in the electrical corporation's rate
13 base consistent with the ratemaking treatment and amortization
14 previously approved by the commission pursuant to this section.

15 393.1640. 1. Subject to the limitations provided for in
16 subsection 2 of this section, and upon proper application by an
17 eligible customer prior to public announcement of a growth
18 project, a new or existing account meeting the following criteria
19 shall be considered for qualification for the discount set forth
20 in this subsection if:

21 (1) The customer adds incremental load, net of any
22 offsetting load reductions due to the termination of other
23 accounts of the customer or an affiliate of the customer within
24 twelve months prior to the commencement of service to the new
25 load, with average monthly demand that is reasonably projected to
26 be at least five hundred kilowatts with a load factor of at least
27 fifty-five percent within two years after the date the
28 application is submitted; and

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

4
5 The discount shall be a percentage applied to all base rate
6 components of the bill. The percentage shall be fixed for each
7 year of service under the discount for a period of up to five
8 years. The average of the annual discount percentages shall
9 equal forty percent and shall not be less than thirty percent nor
10 more than fifty percent in any year. The discount shall be
11 applied to such incremental load from the date when the meter has
12 been permanently set until the date that such incremental load no
13 longer meets the criteria required to qualify for the discount,
14 as determined under the provisions of subsection 2 of this
15 section. An eligible customer shall also receive a ten percent
16 discount of all base rate components of the bill applied to such
17 incremental load for one year after the initial discount period
18 ends if the electrical corporation determines that the customer
19 is taking service from an under-utilized circuit. In no event
20 shall a customer receive a discount under this subsection after
21 the date this section expires. The electrical corporation may
22 include in its tariff additional or alternative terms and
23 conditions to a customer's utilization of the discount, subject
24 to approval of such terms and conditions by the commission. The
25 customer, on forms supplied by the electrical corporation, shall
26 apply for the discount provided for by this subsection at least
27 ninety days prior to the date the customer requests that the
28 incremental demand receive the discounts provided for by this

1 subsection. If the incremental demand is not separately metered,
2 the electrical corporation's determination of the incremental
3 demand shall control.

4 2. In each general rate proceeding concluded after the
5 effective date of this section, the reduced level of revenues
6 arising from the application of discounted rates provided for by
7 subsection 1 of this section shall be allocated to all the
8 electrical corporation's customer classes, including the classes
9 with customers that qualify for discounts under this section.

10 This increase shall be implemented through the application of a
11 uniform percentage adjustment to the revenue requirement
12 responsibility of all customer classes. To qualify for the
13 discounted rates provided for in this section, if incremental
14 load is separately metered, customers shall meet the applicable
15 criteria within twenty-four months after the date the meter is
16 permanently set based on metering data for calendar months
17 thirteen through twenty-four and annually thereafter. If such
18 data indicates that the customer did not meet the criteria for
19 any applicable twelve-month period, it shall thereafter no longer
20 qualify for the discounted rate. The provisions of this section
21 do not supersede or limit the ability of an electrical
22 corporation to continue to utilize economic development or
23 retention tariffs previously approved by the commission that are
24 in effect on the effective date of this section. If, however, a
25 customer is receiving any economic development or retention-
26 related discounts as of the date it would otherwise qualify for a
27 discount provided for by this section, the customer shall agree
28 to relinquish the prior discount concurrently with the date it

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

11 3. For purposes of this section, "electrical corporation"
12 shall mean the same as defined in section 386.020, but shall not
13 include an electrical corporation as described in subsection 2 of
14 section 393.110.

15 4. This section shall expire on December 31, 2028,
16 provided, that unless the electrical corporation has timely
17 obtained the order provided for by subsection 5 of section
18 393.1400, the electrical corporation's customers shall, after
19 December 31, 2023, no longer receive the discounts provided under
20 this section.

21 393.1650. 1. For purposes of this section, the following
22 terms shall mean:

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

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

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

25 3. Within thirty days after the effective date of this
26 section, electrical corporations shall file a verified statement
27 with the commission confirming that they have established a
28 qualification process for the competitive bidding of construction

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

17 4. Nothing in this section shall be construed as requiring
18 any electrical corporation to use a qualified contractor or
19 competitive bidding process in the case of an emergency project,
20 or to terminate any existing contract with a contractor prior to
21 its expiration, provided that the use of any pre-existing
22 contract for construction or construction-related services for
23 distribution system projects shall not qualify as fulfilling the
24 ten percent requirement set forth in subsection 3 of this
25 section. For contractors not qualifying through the competitive
26 bid process, the electrical corporation, upon request from the
27 contractor, shall provide information from the process in which
28 the contractor can be informed as to how to be better positioned

1 to qualify for such bid opportunities in the future.

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

11 393.1655. 1. This section applies to electrical
12 corporations that have elected to exercise any option under
13 section 393.1275 or 393.1400 and that have more than two hundred
14 thousand Missouri retail customers in the year in which this
15 section becomes effective, and shall continue to apply to such
16 electrical corporation until December 31, 2023, if the commission
17 has not issued an order approving continuation of the deferrals
18 authorized by subsection 2 of section 393.1400 and section
19 393.1275, and continuation of the discounts authorized by section
20 393.1640 as authorized by subsection 5 of section 393.1400 with
21 respect to an electrical corporation, or until December 31, 2028,
22 if the commission has issued such an order with respect to an
23 electrical corporation.

24 2. Notwithstanding any other provision of law and except as
25 otherwise provided for by this section, an electrical
26 corporation's base rates shall be held constant for a period
27 starting on the date new base rates were established in the
28 electrical corporation's last general rate proceeding concluded

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

16 3. If the difference between (a) the electrical
17 corporation's average overall rate at any point in time while
18 this section applies to the electrical corporation, and (b) the
19 electrical corporation's average overall rate as of the date new
20 base rates are set in the electrical corporation's most recent
21 general rate proceeding concluded prior to the date the
22 electrical corporation gave notice under either subsection 4 of
23 section 393.1275 or subsection 5 of section 393.1400, reflects a
24 compound annual growth rate of more than three percent, the
25 electrical corporation shall establish a regulatory liability in
26 the amounts specified in subsection 4 of this section. The
27 regulatory liability shall be amortized over a reasonable period
28 as determined by the commission. The electrical corporation

1 shall not seek to recover the amortized funds from customers. A
2 separate regulatory liability is required for each general rate
3 proceeding covered by this subsection for which the three percent
4 threshold provided by this subsection is exceeded.

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

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

28 6. If a change in any rates charged under a rate adjustment

1 mechanism approved by the commission under sections 386.266 and
2 393.1030 would cause an electrical corporation's average overall
3 rate to exceed the compound annual growth rate limitation set
4 forth in subsection 3 of this section, the electrical corporation
5 shall reduce the rates charged under that rate adjustment
6 mechanism in an amount sufficient to ensure that the compound
7 annual growth rate limitation set forth in subsection 3 is not
8 exceeded due to the application of the rate charged under such
9 mechanism and the penalty under subsection 4 is not triggered.
10 Sums not recovered under any such mechanism because of any
11 reduction in rates under such a mechanism pursuant to this
12 subsection shall be deferred to and included in the regulatory
13 asset arising under section 393.1400 or, if applicable, under the
14 regulatory and ratemaking treatment ordered by the commission
15 under subsection 6 of section 393.1400 and subsection 4 of
16 section 393.1640, and recovered through an amortization in base
17 rates in the same manner as deferrals under that section or order
18 are recovered in base rates.

19 7. If the difference between (a) the electrical
20 corporation's class average overall rate while this section
21 applies to the electrical corporation, and (b) the electrical
22 corporation's class average overall rate as of the date rates are
23 set in the electrical corporation's most recent general rate
24 proceeding concluded prior to the date the electrical corporation
25 gave notice under either subsection 4 of section 393.1275 or
26 subsection 5 of section 393.1400, reflects a compound annual
27 growth rate of more than two percent for the large power service
28 rate class, the class average overall rate shall increase by an

1 amount so that the increase shall equal a compound annual growth
2 rate of two percent over such period for such large power service
3 rate class, with the reduced revenues arising from limiting the
4 large power service class average overall rate increase to two
5 percent to be allocated to all the electrical corporation's other
6 customer classes through the application of a uniform percentage
7 adjustment to the revenue requirement responsibility of all the
8 other customer classes.

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

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

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

19 (3) "Average rider rate", a rate calculated by dividing the
20 total of the sums to be recovered from all customer classes under
21 the electrical corporation's rate adjustment mechanisms in place
22 other than a rate adjustment mechanism under section 393.1075 by
23 the total sales volumes stated in kilowatt-hours for all of the
24 electrical corporation's rate classes used to set rates under
25 such rate adjustment mechanisms, exclusive of gross receipts tax,
26 sales tax, and other similar pass-through taxes;

27 (4) "Class average base rate", a rate calculated by
28 dividing the retail revenue requirement from the applicable

1 general rate proceeding that is allocated to the electrical
2 corporation's large power service rate class in that general rate
3 proceeding, by the total sales volumes stated in kilowatt-hours
4 for that class used to set rates in that general rate proceeding,
5 exclusive of gross receipts tax, sales tax, and other similar
6 pass-through taxes;

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

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

18 (7) "Force majeure event", an event or circumstance that
19 occurs as a result of a weather event, an act of God, war, or
20 terrorism, or other uncontrollable event as determined by the
21 commission that causes a reduction in revenues, an increase in
22 the cost of providing electrical service, or some combination
23 thereof, and the event has an associated fiscal impact on the
24 electrical corporation's operations equal to three percent or
25 greater of the total revenue requirement established in the
26 electrical corporation's last general rate proceeding concluded
27 prior to the date the electrical corporation gave a notice under

1 either subsection 4 of section 393.1275 or subsection 5 of
2 section 393.1400;

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