

SECOND REGULAR SESSION

# SENATE BILL NO. 730

99TH GENERAL ASSEMBLY

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INTRODUCED BY SENATOR WALLINGFORD.

Pre-filed December 1, 2017, and ordered printed.

ADRIANE D. CROUSE, Secretary.

4491S.011

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## AN ACT

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

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*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Section A. Section 393.1012, RSMo, is repealed and twelve new sections  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 July 1, 2019, develop and file with the commission a pre-qualification  
35 process for contractors seeking to participate in competitive bidding  
36 to install ISRS-eligible gas utility plant projects. Under the pre-  
37 qualification process, the gas corporation may specify certain  
38 eligibility requirements typically accepted by the industry, including  
39 but not limited to, experience, performance criteria, safety policies, and  
40 insurance or indemnification requirements to be met by any contractor  
41 seeking to participate in competitive bidding to install ISRS-eligible  
42 gas utility plant projects. Contractors that meet the pre-qualification  
43 criteria set by the gas corporation shall be eligible to participate in the  
44 competitive bidding process for installing ISRS-eligible gas utility plant  
45 projects, with the winning bid awarded to the contractor making the  
46 overall lowest and best bid, as defined in subsection 2 of section  
47 34.010. The gas corporation shall file, by January 1, 2020, a verified  
48 statement with the commission confirming that it has in place a pre-  
49 qualification process for the competitive bidding of ISRS-eligible gas  
50 utility plant projects, and that such process conforms with the  
51 requirements of this section. The commission shall have the authority  
52 to verify the statement to ensure compliance with this section. After  
53 January 1, 2020, the gas corporation shall submit with each petition  
54 filing to establish or change an ISRS a verified statement confirming  
55 that it is using a competitive bidding process for no less than ten

56 percent of the combined external installation expenditures made by the  
57 gas corporation's operating units in Missouri for installing ISRS-  
58 eligible gas utility plant projects, and that such process conforms with  
59 the requirements set forth in this section. The commission shall have  
60 the authority to verify the statement to ensure compliance with this  
61 section. Nothing in this section shall be construed as requiring any gas  
62 corporation to use a pre-qualified contractor or competitive bidding  
63 process in the case of an emergency project, or to terminate any  
64 existing contract with a contractor prior to its expiration; provided  
65 however, that the use of any preexisting contract for the installation of  
66 ISRS-eligible gas utility plant projects shall not qualify as fulfilling the  
67 ten percent requirement set forth in this section beyond December 31,  
68 2020. For contractors not qualifying through the competitive bid  
69 process, the gas corporation, upon request from the contractor, shall  
70 provide information from the process in which the contractor can be  
71 informed as to how to be better positioned to qualify for such bid  
72 opportunities in the future.

73       5. By December 31, 2021, and annually thereafter, the commission  
74 shall submit a report to the general assembly on the effects of  
75 subsection 4 of this section, including gas corporation compliance,  
76 potential legislative action regarding subsection 4 of this section, the  
77 costs of installing ISRS-eligible gas utility plant projects prior to the  
78 implementation of subsection 4 of this section compared to after the  
79 implementation of subsection 4 of this section, and any other  
80 information regarding the processes established under subsection 4 of  
81 this section that the commission deems necessary.

82       6. Nothing in this section shall be construed as diminishing in  
83 any way the current authority and rights of the commission, on its own  
84 motion, the office of the public counsel, or other authorized entity to  
85 file a complaint under section 386.390 alleging that the rates or charges  
86 of the gas corporation are unreasonable or unlawful, provided that the  
87 reasonableness and lawfulness of the rates of a participating gas  
88 corporation, as defined in section 393.1710, shall be governed  
89 exclusively by the processes and procedures set forth in sections  
90 393.1700 to 393.1750.

      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 in a manner that builds upon and extends  
4 traditional ratemaking elements and procedures to advance the  
5 interests of both utilities and their customers while contributing to  
6 economic growth within the state.

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", an annual limitation on the amount of rate  
7 increase that may be made under the annual true-up provided for in  
8 section 393.1725 equal to three percent of the gas corporation's  
9 previous year's Missouri gross jurisdictional revenues, with excess  
10 amounts deferred and booked to a regulatory asset account for  
11 recovery in a later period;

12 (2) "Annual true-up", an annual filing made by a participating gas  
13 corporation to reflect in rates various updated financial and  
14 operational results, and utilizing the ratemaking and review process  
15 described in section 393.1725;

16 (3) "Cost management accountability" or "CMA", an adjustment  
17 mechanism used in the annual true-up to better hold a participating  
18 gas corporation accountable for, and incentivize effective management  
19 of, its costs by comparing the updated O&M expense to a performance  
20 benchmark approved in the corporation's periodic rate proceeding  
21 based on the normalized and annualized O&M expense in the then  
22 concluding year, updated for increases in the Consumers Price  
23 Index-For All Urban Consumers (CPI-U);

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

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

37           (6) "Foundational elements", the ratemaking determinations and  
38 methods approved or modified by the commission listed under  
39 subsection 1 of section 393.1715, as updated or adjusted consistent with  
40 the processes and mechanisms set forth in sections 393.1700 to 393.1750;

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

51           (8) "ISRS", an infrastructure system replacement surcharge  
52 authorized under sections 393.1009 to 393.1015;

53           (9) "Participating gas corporation", a gas corporation that elects  
54 to file an initiating general rate proceeding to update rates using  
55 annual true-up and periodic rate review proceedings under sections  
56 393.1700 to 393.1750;

57           (10) "Performance measurement indicators", service and  
58 operational metrics approved by the commission utilized to hold a  
59 participating gas corporation accountable for managing satisfactory  
60 levels of performance in key areas, including but not limited to safety,  
61 reliability, customer satisfaction, service, and operations;

62           (11) "Periodic rate review proceeding", the process described in  
63 section 393.1730 to review and, if necessary and appropriate, revise  
64 foundational elements used to establish rates in the annual true-up;

65           (12) "Revenue requirement", the amount of revenues to be in  
66 effect for the next annual period, as calculated in the annual true-up,  
67 including any adjustments resulting from the application of the  
68 earnings test, subject to the annual rate cap, and any adjustment

69 resulting from the application of the CMA, plus any adjustment  
70 resulting from the application of the CMA and revenue stabilization  
71 mechanism;

72 (13) "Revenue stabilization mechanism", a mechanism that  
73 adjusts rates as part of the annual true-up to prevent an over- or under-  
74 recovery of authorized distribution revenues due to changes in usage  
75 by the participating gas corporation's residential customers and those  
76 non-residential customers with annual usage equivalent to, or less than,  
77 twenty thousand decatherms;

78 (14) "Updated cost of capital", a calculation used to set rates in  
79 the annual true-up for the following annual period. "Updated cost of  
80 capital" shall be the product of the updated rate base and the ending  
81 pre-tax weighted average cost of capital of the participating gas  
82 corporation, based on the updated return on equity and the updated  
83 interest rate;

84 (15) "Updated distribution revenues", the distribution-related  
85 revenues, annualized for changes in customer levels. Such revenues  
86 shall reflect amounts billed by the participating gas corporation during  
87 the updated test year, as adjusted to reflect the annualized revenues of  
88 the participating gas corporation's then effective ISRS, and accruals  
89 booked resulting from the application of the revenue stabilization  
90 mechanism, but excluding revenues accounted for through the  
91 participating gas corporation's purchased gas adjustment and actual  
92 cost adjustment;

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

101 (17) "Updated interest rate", the weighted average interest rate  
102 for the participating gas corporation's long term debt and preferred  
103 stock outstanding as of the end of the updated test year which is used  
104 to determine the updated cost of capital for purposes of setting rates  
105 in the annual true-up;

106           (18) "Updated operations and maintenance expense" or "updated  
107 O&M expense", the normalized and annualized distribution operations  
108 and maintenance expense incurred by the participating gas corporation  
109 during the updated test year, which shall be calculated by reflecting  
110 the normalized and annualized net dollar amount in FERC Accounts  
111 700 through 950 "Operation Expenses", less any updated ineligible  
112 expenses in such accounts. Such updated O&M expense shall be used  
113 for determining the participating gas corporation's performance under  
114 the cost management accountability mechanism and making any  
115 resulting rate adjustment as part of the corporation's annual true-up;

116           (19) "Updated other expenses", the normalized and annualized  
117 depreciation and amortization expense, as well as all federal, state and  
118 local taxes, other than gross-receipts, sales and other similar pass-  
119 through taxes;

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

131           (21) "Updated return on equity", the return on equity authorized  
132 for the participating gas corporation in its initiating general rate  
133 proceeding or periodic rate review proceeding, adjusted each year in  
134 the annual true-up for results of the performance measurement  
135 indicators and capital market changes, reflected in long-term United  
136 States Treasury Bond yield rates;

137           (22) "Updated test year", the historic annual period between the  
138 effective dates of each annual true-up, which is used as the beginning  
139 and ending point for establishing the revenue requirement in the  
140 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. Such initiating general rate proceeding shall be  
6 conducted in accordance with the procedures and requirements  
7 established by the commission for general rate proceedings. The  
8 commission shall, with the assistance of the parties to the proceeding,  
9 prepare and approve a supplement to the detailed reconciliation  
10 required to be filed under subsection 4 of section 386.420, which shall  
11 include any additional information required for the participating gas  
12 corporation's periodic rate review proceeding and the foundational  
13 elements to be used in calculating rates for the annual true-up. Such  
14 foundational elements shall include a full and complete description or  
15 specification of:

16 (1) The calculation methods to be used to determine the cash  
17 working capital requirement, including the revenue and expense lag for  
18 each revenue and expense item to be considered in establishing such  
19 revenue requirement component in the annual true-up;

20 (2) The calculation methods to be used to determine working  
21 capital items, including regulatory assets or liabilities receiving rate  
22 base treatment, as well as customer deposits, contributions in aid of  
23 construction, other investments required for business purposes, such  
24 as materials and supplies, inventories, and prepaid items;

25 (3) Each regulatory asset or liability to be included in rates,  
26 including the ending balance of each regulatory asset or liability,  
27 whether rate base treatment is afforded in working capital, and the  
28 annual amortization amount to be included in rates in the annual true-  
29 up;

30 (4) Each item in the cost stabilization reserve, including the  
31 ending balance of each regulatory asset or liability, whether rate base  
32 treatment is afforded, and the annual amortization amount to be  
33 included in rates in the annual true-up;

34 (5) The weighted capital structure to be included in rates in the  
35 annual true-up including the weighting to be used for each component  
36 consistent with the actual long-term capitalization of the participating  
37 gas corporation, provided that the participating gas corporation is no  
38 less than forty percent and no more than sixty percent of its total  
39 capital structure and is within ten percentage points of the equity



40 component of its parent corporation's capital structure, if any;

41 (6) The return on equity to be used to calculate rates, including  
42 the starting benchmark capital market rate to be used for the annual  
43 true-up, as calculated based on the most recent twelve-month average  
44 of the thirty-year United States treasury bond yield of the then-longest  
45 duration published by the board of governors in its weekly H.15  
46 statistical release, or any successor publication;

47 (7) The performance measurement indicators to be used to  
48 measure the participating gas corporation's performance, and  
49 depending on actual results achieved, potentially adjust the  
50 participating gas corporation's updated return on equity in the annual  
51 true-up. No fewer than four and no fewer than six metrics shall be  
52 established and approved by the commission for use in the annual true-  
53 up. A benchmark range of acceptable performance shall be established  
54 based on the participating gas corporation's historical experience in  
55 the area measured over the most recent five years, or shorter period if  
56 consistent information is not available, and such range should be  
57 reasonably achievable. Each metric shall be assigned a value of five  
58 basis points, and performance levels above or below the benchmark  
59 range shall be used to increase or decrease, respectively, the  
60 subsequent updated return on equity;

61 (8) The defined performance benchmark cost level for O&M  
62 expense to be used for the CMA mechanism for the subsequent annual  
63 true-ups to compare against the updated O&M expense. Such  
64 benchmark shall be set based on the updated O&M expense in the then-  
65 concluding updated test year, subject to the grow and share provision  
66 of the CMA;

67 (9) The categories and types of ineligible operating expenses to  
68 be excluded from rates in the annual true-up, including the associated  
69 FERC accounts;

70 (10) The methodologies to be used to allocate joint and common  
71 costs included in rates between the participating gas corporation and  
72 its affiliates to the extent the methodologies differ from those in the  
73 commission-approved cost allocation manual;

74 (11) The billing determinants to be used to establish rates, for  
75 use in the annual true-up and revenue stabilization mechanism process;

76 (12) The class cost of service method to be used to allocate costs

77 between and within each customer class, including the rate design to  
78 be used for each class, together with a specification of the method to  
79 be used to allocate any increase or decrease in revenue requirement for  
80 the annual true-up;

81 (13) The depreciation rates to be used to establish rates included  
82 in the annual true-up; and

83 (14) The templates to be used for the surveillance reports that  
84 will be submitted on a quarterly basis to report current operating  
85 expenses, rate base, revenues, and performance metrics used in the  
86 annual true-up.

87 2. If the gas corporation has had new rates become effective in  
88 the past two years as a result of a general rate proceeding, then the  
89 commission shall, upon the filing of a notice by the gas corporation  
90 requesting such action, conduct a proceeding to consider and  
91 determine only those foundational elements that were not otherwise  
92 identified by agreement or by a commission order in the general rate  
93 proceeding, provided that the commission, in its sole discretion, may  
94 consider changes to the return on equity previously established. Such  
95 proceeding shall be conducted and concluded within five months and  
96 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, ten thousand decatherms. The adjustment  
7 shall utilize a deferral account, with interest applied at the  
8 participating gas corporation's short term cost of debt, to track and  
9 book as a regulatory liability or asset, as applicable, any excessive or  
10 deficient revenue due to a change in the assumed commodity use per  
11 customer established in the periodic rate review proceeding. Such  
12 deferral account shall amortize the difference on an earnings-neutral  
13 basis and be excluded from the earnings test. No adjustment shall be  
14 made for a variance in the determinants based on 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 participating gas corporation during the most recent updated test year  
19 for the 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 based on an application of the  
7 foundational elements most recently determined by the commission to  
8 actual results and application at the CMA, earnings test, and other  
9 updates and adjustments authorized by sections 393.1700 to  
10 393.1750. Any rate changes resulting from such filing shall be placed  
11 into effect on an interim basis on the date following the end of the  
12 current updated test year, subject to refund. The commission, at its  
13 discretion, may implement a future test year for the annual update.

14 2. The participating gas corporation's annual true-up filing shall  
15 be based upon the most recent three quarters of information on the  
16 participating gas corporation's books and a pro forma forecast for the  
17 remaining quarter. Such forecast shall be of sufficient line item detail  
18 to permit adequate review by commission staff, and updated actual  
19 results shall be filed at least thirty days before the commission staff's  
20 recommendation is due. Any supporting information that is  
21 proprietary or confidential may be submitted on a confidential basis  
22 under the commission's rules governing such matters.

23 3. Minimum filing requirements shall include:

24 (1) Financial reports for the participating gas corporation's  
25 regulated Missouri utility operations for the updated test year as such

26 financial reports are finalized based on actual results, including the  
27 income statement, balance sheet, and cash flow statement with line-  
28 item detail matching the level of the FERC Form 2 or the annual  
29 distribution utility report provided to the commission. The financials  
30 should be adjusted to reflect the application of the foundational  
31 elements approved in the initiating general rate proceeding or the most  
32 recently concluded periodic rate review proceeding;

33 (2) Accounting schedules of the type normally provided in a  
34 general rate case proceeding showing updated rate base amounts,  
35 including ending balances for regulatory assets and liabilities and cost  
36 stabilization reserve amounts, as well as annual amortization amounts  
37 to be included in rates, updated ineligible operating expenses that are  
38 consistent with the determinations made by the commission in the  
39 initiating general rate proceeding or most recently concluded periodic  
40 rate review proceeding;

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

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

55 (a) Performance measurement indicator adjustments shall  
56 compare performance achieved during the updated test year for each  
57 metric to the benchmark range of expected performance approved in  
58 the most recent periodic rate review proceeding. For each instance in  
59 which the participating gas corporation's performance exceeds the  
60 benchmark range of performance for the metric, five basis points shall  
61 be added to the updated return on equity used for the earnings test in  
62 the current annual true-up. For each instance in which the

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

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

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

94 4. Within four months of the annual true-up filing, the  
95 commission staff shall submit its recommendation verifying that the  
96 revenue requirement was calculated and implemented in conformity  
97 with this section and based on prudently incurred costs or identifying  
98 with specificity any ways in which the update filing was not in  
99 conformity with the requirements of this section.

100           5. If the parties to the annual true-up are unable to jointly  
101 recommend a revenue requirement to the commission within twenty  
102 days of the filing of commission staff's report, the commission shall  
103 establish a procedural schedule so that any contested issues may be  
104 adjudicated by the commission with a report and order resolving such  
105 differences issued within five months after the filing of the commission  
106 staff's report. The commission shall, in such report and order, make  
107 permanent the interim rates filed by the participating gas corporation  
108 to the extent such rates have been calculated in compliance with the  
109 requirements of sections 393.1700 to 393.1750. Any adjustments made  
110 by the commission to the revenue requirement shall be reflected in the  
111 next annual true-up filing made by the participating gas corporation,  
112 subject to judicial review.

113           6. The revenue requirement to be in effect for the next annual  
114 period shall include a rebasing of all ISRS costs implemented and in  
115 effect during the updated test period. Any participating gas  
116 corporation shall be permitted to make filings under sections 393.1009  
117 to 393.1015, provided that the annual rate cap, timing, periodic rate  
118 review proceeding requirements, and rebasing ISRS charges set forth  
119 in this subsection shall be substituted for any similar rate caps, ISRS  
120 rebasing, or general rate proceeding requirements under sections  
121 393.1009 to 393.1015.

122           7. Any annual rate adjustment resulting from the application of  
123 the earnings test shall not, when combined with any ISRS charges reset  
124 in the annual true-up during the same annual period, exceed an annual  
125 increase to the revenue requirement amount equal to three percent of  
126 the prior year's Missouri gross jurisdictional revenues. In addition to  
127 the rate adjustment, the participating gas corporation shall be  
128 permitted to collect any applicable gross receipts tax, sales tax, or  
129 other similar pass-through taxes, and such taxes shall not be counted  
130 against the annual rate cap. Any costs not recovered as a result of the  
131 annual rate cap limitation on rate adjustments shall be deferred, at a  
132 carrying cost each month equal to the participating gas corporation's  
133 net of tax, long-term cost of capital, for recovery in a subsequent year's  
134 annual true-up or periodic rate review proceeding.

          393.1730. 1. After each third rate year effectuating an annual  
2 true-up, the participating gas corporation shall file a periodic rate

3 review proceeding at least six months prior to the participating gas  
4 corporation's next annual true-up filing. Such filing shall include the  
5 participating gas corporation's proposed positions and supporting  
6 documentation on each of the foundational elements identified in  
7 subsection 1 of section 393.1715.

8       2. Within sixty days of such filing, interested parties may present  
9 their own positions and evidence on the matters addressed in the filing  
10 and the participating gas corporation shall be allowed to respond to  
11 each such position and evidence within ninety days of the filing date.  
12 If any issues remain to be resolved between the parties, the commission  
13 shall schedule a hearing to commence within one hundred twenty days  
14 of the filing date, and issue an order presenting its determinations and  
15 findings on each item within five months of the filing date of the  
16 periodic rate review proceeding. Such determinations shall be used to  
17 set rates in subsequent annual true-ups, subject to the right of the  
18 participating gas corporation and other parties to seek judicial review  
19 of the determinations in accordance with applicable law. The existence  
20 of a judicial review proceeding shall not preclude a participating gas  
21 corporation from filing, or the commission from processing, any  
22 subsequent initiating general rate proceeding, annual true-up, or  
23 periodic rate review proceeding.

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 or to extend gas service to new areas. Such programs may  
6 achieve this goal by providing discounted rates or financing  
7 arrangements on terms that, at a minimum, recover the depreciation,  
8 property tax, and carrying cost of any incremental investment and any  
9 incremental variable costs incurred to serve such customer or  
10 customers while making some positive contribution to the participating  
11 gas corporation's fixed costs of serving other customers.

12       2. The rates approved by the commission during the annual true-  
13 up shall reflect the actual annualized revenues being received under  
14 the discounted rate or long-term financing arrangement.

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 sections 393.1700 to 393.1750 shall remain in effect until such  
7 time as new rates are set under section 393.150, subject to any  
8 adjustment that may be made to such rates based on the commission  
9 staff's audit of the last updated test year.

393.1745. On or after 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, but only to the extent such rules are consistent with and do  
4 not delay the implementation of sections 393.1700 to 393.1745. Any rule  
5 or portion of a rule, as that term is defined in section 536.010 that is  
6 created under the authority delegated in this section shall become  
7 effective only if it complies with and is subject to all of the provisions  
8 of chapter 536, and, if applicable, section 536.028. This section and  
9 chapter 536 are nonseverable and if any of the powers vested with the  
10 general assembly pursuant to chapter 536, to review, to delay the  
11 effective date, or to disapprove and annul a rule are subsequently held  
12 unconstitutional, then the grant of rulemaking authority and any rule  
13 proposed or adopted after August 28, 2018, shall be invalid and void.

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