

SECOND REGULAR SESSION

[P E R F E C T E D]

SENATE SUBSTITUTE FOR

SENATE BILL NO. 618

100TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR WALLINGFORD.

Offered March 3, 2020.

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ADRIANE D. CROUSE, Secretary.

4059S.03P

AN ACT

To repeal sections 393.1009, 393.1012, and 393.1015, RSMo, and to enact in lieu thereof five new sections relating to gas corporations.

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

Section A. Sections 393.1009, 393.1012, and 393.1015, RSMo, are repealed
2 and five new sections enacted in lieu thereof, to be known as sections 393.1009,
3 393.1012, 393.1015, 1, and 2, to read as follows:

393.1009. As used in sections 393.1009 to 393.1015, the following terms
2 mean:

3 (1) "Appropriate pretax revenues", the revenues necessary to produce net
4 operating income equal to:

5 (a) The gas corporation's weighted cost of capital multiplied by the net
6 original cost of eligible infrastructure system replacements, including recognition
7 of accumulated deferred income taxes and accumulated depreciation associated
8 with eligible infrastructure system replacements which are included in a
9 currently effective ISRS, **less the net plant value of any retired assets**; and

10 (b) Recover state, federal, and local income or excise taxes applicable to
11 such income; and

12 (c) Recover all other ISRS costs;

13 (2) "Commission", the Missouri public service commission;

14 (3) "Eligible infrastructure system replacements", gas utility plant
15 projects that:

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

16 (a) Do not increase revenues by directly connecting the infrastructure
17 replacement to new customers;

18 (b) Are in service and used and useful;

19 (c) Were not included in the gas corporation's rate base in its most recent
20 general rate case; and

21 (d) Replace or extend the useful life of an existing infrastructure;

22 (4) "Gas corporation", every corporation, company, association, joint stock
23 company or association, partnership and person, their lessees, trustees or
24 receivers appointed by any court whatsoever, owning, operating, controlling, or
25 managing any gas plant operating for public use under privilege, license, or
26 franchise now or hereafter granted by the state or any political subdivision,
27 county, or municipality thereof as defined in section 386.020;

28 (5) "Gas utility plant projects" may consist only of the following:

29 (a) Mains, valves, service lines, regulator stations, vaults, and other
30 pipeline system components installed to comply with state or federal safety
31 requirements as replacements for existing **cast iron, steel, or other** facilities
32 that [have worn out or are in deteriorated condition] **can no longer be**
33 **installed under currently applicable safety standards, including any**
34 **connected or associated facilities that, regardless of their material, age,**
35 **or condition, are replaced as part of a qualifying replacement project**
36 **in a manner that adds no incremental cost to a project compared to**
37 **tying into or reusing existing facilities;**

38 (b) Main relining projects, service line insertion projects, joint
39 encapsulation projects, and other similar projects extending the useful life or
40 enhancing the integrity of pipeline system components undertaken to comply with
41 state or federal safety requirements; and

42 (c) Facilities relocations required due to construction or improvement of
43 a highway, road, street, public way, or other public work by or on behalf of the
44 United States, this state, a political subdivision of this state, or another entity
45 having the power of eminent domain provided that the costs related to such
46 projects have not been reimbursed to the gas corporation;

47 (6) "ISRS", infrastructure system replacement surcharge;

48 (7) "ISRS costs", depreciation expense and property taxes that will be due
49 within twelve months of the ISRS filing;

50 (8) "ISRS revenues", revenues produced through an ISRS exclusive of
51 revenues from all other rates and charges.

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] **393.1015**.

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.

22 3. In no event shall a gas corporation collect an ISRS for a period
23 exceeding three years unless the gas corporation has filed for or is the subject of
24 a new general rate proceeding; provided that the ISRS may be collected until the
25 effective date of new rate schedules established as a result of the new general
26 rate proceeding, or until the subject general rate proceeding is otherwise decided
27 or dismissed by issuance of a commission order without new rates being
28 established.

29 **4. In order for a gas corporation to file a petition with the**
30 **commission to establish or change an ISRS, such corporation shall, by**
31 **July 1, 2021, develop and file with the commission a pre-qualification**
32 **process for contractors seeking to participate in competitive bidding**
33 **to install ISRS-eligible gas utility plant projects. Under the pre-**
34 **qualification process, the gas corporation may specify certain**
35 **eligibility requirements typically accepted by the industry, including**
36 **but not limited to, experience, performance criteria, safety policies, and**

37 insurance or indemnification requirements to be met by any contractor
38 seeking to participate in competitive bidding to install ISRS-eligible
39 gas utility plant projects. Contractors that meet the pre-qualification
40 criteria set by the gas corporation shall be eligible to participate in the
41 competitive bidding process for installing ISRS-eligible gas utility plant
42 projects, with the winning bid awarded to the contractor making the
43 overall lowest and best bid, as defined in subsection 2 of section
44 34.010. The gas corporation shall file, by January 1, 2022, a verified
45 statement with the commission confirming that it has in place a pre-
46 qualification process for the competitive bidding of ISRS-eligible gas
47 utility plant projects, and that such process conforms with the
48 requirements of this section. The commission shall have the authority
49 to verify the statement to ensure compliance with this section. After
50 January 1, 2022, the gas corporation shall submit with each petition
51 filing to establish or change an ISRS a verified statement confirming
52 that it is using a competitive bidding process for no less than twenty-
53 five percent of the combined external installation expenditures made
54 by the gas corporation's operating units in Missouri for installing ISRS-
55 eligible gas utility plant projects, and that such process conforms with
56 the requirements set forth in this section. The commission shall have
57 the authority to verify the statement to ensure compliance with this
58 section. Nothing in this section shall be construed as requiring any gas
59 corporation to use a pre-qualified contractor or competitive bidding
60 process in the case of an emergency project, or to terminate any
61 existing contract with a contractor prior to its expiration; provided
62 however, that the use of any preexisting contract for the installation of
63 ISRS-eligible gas utility plant projects shall not qualify as fulfilling the
64 twenty-five percent requirement set forth in this section beyond
65 December 31, 2022. For contractors not qualifying through the
66 competitive bid process, the gas corporation, upon request from the
67 contractor, shall provide information from the process in which the
68 contractor can be informed as to how to be better positioned to qualify
69 for such bid opportunities in the future.

70 5. By December 31, 2023, and annually thereafter, the commission
71 shall submit a report to the general assembly on the effects of
72 subsection 4 of this section, including gas corporation compliance,
73 potential legislative action regarding subsection 4 of this section, the

74 **costs of installing ISRS-eligible gas utility plant projects prior to the**
75 **implementation of subsection 4 of this section compared to after the**
76 **implementation of subsection 4 of this section, and any other information**
77 **regarding the processes established under subsection 4 of this section**
78 **that the commission deems necessary.**

393.1015. 1. (1) At the time that a gas corporation files a petition with
2 the commission seeking to establish or change an ISRS, it shall submit proposed
3 ISRS rate schedules and its supporting documentation regarding the calculation
4 of the proposed ISRS with the petition, and shall serve the office of the public
5 counsel with a copy of its petition, its proposed rate schedules, and its supporting
6 documentation.

7 (2) Upon the filing of a petition, and any associated rate schedules,
8 seeking to establish or change an ISRS, the commission shall publish notice of the
9 filing.

10 2. (1) When a petition, along with any associated proposed rate schedules,
11 is filed pursuant to the provisions of sections 393.1009 to 393.1015, the
12 commission shall conduct an examination of the proposed ISRS.

13 (2) The staff of the commission may examine information of the gas
14 corporation to confirm that the underlying costs are in accordance with the
15 provisions of sections 393.1009 to 393.1015, and to confirm proper calculation of
16 the proposed charge, and may submit a report regarding its examination to the
17 commission not later than sixty days after the petition is filed. No other revenue
18 requirement or ratemaking issues may be examined in consideration of the
19 petition or associated proposed rate schedules filed pursuant to the provisions of
20 sections 393.1009 to 393.1015.

21 (3) The commission may hold a hearing on the petition and any associated
22 rate schedules and shall issue an order to become effective not later than one
23 hundred twenty days after the petition is filed.

24 (4) If the commission finds that a petition complies with the requirements
25 of sections 393.1009 to 393.1015, the commission shall enter an order authorizing
26 the corporation to impose an ISRS that is sufficient to recover appropriate pretax
27 revenue, as determined by the commission pursuant to the provisions of sections
28 393.1009 to 393.1015.

29 3. A gas corporation may effectuate a change in its rate pursuant to the
30 provisions of this section no more often than two times every twelve months.

31 4. In determining the appropriate pretax revenue, the commission shall

32 consider only the following factors:

33 (1) The current state, federal, and local income tax or excise rates;

34 (2) The gas corporation's actual regulatory capital structure as determined
35 during the most recent general rate proceeding of the gas corporation;

36 (3) The actual cost rates for the gas corporation's debt and preferred stock
37 as determined during the most recent general rate proceeding of the gas
38 corporation;

39 (4) The gas corporation's cost of common equity as determined during the
40 most recent general rate proceeding of the gas corporation;

41 (5) The current property tax rate or rates applicable to the eligible
42 infrastructure system replacements;

43 (6) The current depreciation rates applicable to the eligible infrastructure
44 system replacements; and

45 (7) In the event information pursuant to subdivisions (2), (3), and (4) of
46 this subsection is unavailable and the commission is not provided with such
47 information on an agreed-upon basis, the commission shall refer to the testimony
48 submitted during the most recent general rate proceeding of the gas corporation
49 and use, in lieu of any such unavailable information, the recommended capital
50 structure, recommended cost rates for debt and preferred stock, and recommended
51 cost of common equity that would produce the average weighted cost of capital
52 based upon the various recommendations contained in such testimony.

53 5. (1) The monthly ISRS charge may be calculated based on a reasonable
54 estimate of billing units in the period in which the charge will be in effect, which
55 shall be conclusively established by dividing the appropriate pretax revenues by
56 the customer numbers reported by the gas corporation in the annual report it
57 most recently filed with the commission pursuant to subdivision (6) of section
58 393.140, and then further dividing this quotient by twelve. Provided, however,
59 that the monthly ISRS may vary according to customer class and may be
60 calculated based on customer numbers as determined during the most recent
61 general rate proceeding of the gas corporation so long as the monthly ISRS for
62 each customer class maintains a proportional relationship equivalent to the
63 proportional relationship of the monthly customer charge for each customer class.

64 (2) At the end of each twelve-month calendar period the ISRS is in effect,
65 the gas corporation shall reconcile the differences between the revenues resulting
66 from an ISRS and the appropriate pretax revenues as found by the commission
67 for that period and shall submit the reconciliation and a proposed ISRS

68 adjustment to the commission for approval to recover or refund the difference, as
69 appropriate, through adjustments of an ISRS charge.

70 6. (1) A gas corporation that has implemented an ISRS pursuant to the
71 provisions of sections 393.1009 to 393.1015 shall file revised rate schedules to
72 reset the ISRS to zero when new base rates and charges become effective for the
73 gas corporation following a commission order establishing customer rates in a
74 general rate proceeding that incorporates in the utility's base rates subject to
75 subsections 8 and 9 of this section eligible costs previously reflected in an ISRS.

76 (2) Upon the inclusion in a gas corporation's base rates subject to
77 subsections 8 and 9 of this section of eligible costs previously reflected in an
78 ISRS, the gas corporation shall immediately thereafter reconcile any previously
79 unreconciled ISRS revenues as necessary to ensure that revenues resulting from
80 the ISRS match as closely as possible the appropriate pretax revenues as found
81 by the commission for that period.

82 7. A gas corporation's filing of a petition or change to an ISRS pursuant
83 to the provisions of sections 393.1009 to 393.1015 shall not be considered a
84 request for a general increase in the gas corporation's base rates and charges.

85 8. Commission approval of a petition, and any associated rate schedules,
86 to establish or change an ISRS pursuant to the provisions of sections 393.1009 to
87 393.1015 shall in no way be binding upon the commission in determining the
88 ratemaking treatment to be applied to eligible infrastructure system replacements
89 during a subsequent general rate proceeding when the commission may
90 undertake to review the prudence of such costs. In the event the commission
91 disallows, during a subsequent general rate proceeding, recovery of costs
92 associated with eligible infrastructure system replacements previously included
93 in an ISRS, the gas corporation shall offset its ISRS in the future as necessary
94 to recognize and account for any such overcollections.

95 9. Nothing in this section shall be construed as limiting the authority of
96 the commission to review and consider infrastructure system replacement costs
97 along with other costs during any general rate proceeding of any gas corporation.

98 10. Nothing contained in sections 393.1009 to 393.1015 shall be construed
99 to impair in any way the authority of the commission to review the
100 reasonableness of the rates or charges of a gas corporation, including review of
101 the prudence of eligible infrastructure system replacements made by a gas
102 corporation, pursuant to the provisions of section 386.390.

103 11. The commission shall have authority to promulgate rules for the

104 implementation of sections 393.1009 to 393.1015, but only to the extent such rules
105 are consistent with, and do not delay the implementation of, the provisions of
106 sections 393.1009 to 393.1015. Any rule or portion of a rule, as that term is
107 defined in section 536.010, that is created under the authority delegated in this
108 section shall become effective only if it complies with and is subject to all of the
109 provisions of chapter 536 and, if applicable, section 536.028. This section and
110 chapter 536 are nonseverable and if any of the powers vested with the general
111 assembly pursuant to chapter 536 to review, to delay the effective date, or to
112 disapprove and annul a rule are subsequently held unconstitutional, then the
113 grant of rulemaking authority and any rule proposed or adopted after August 28,
114 2003, shall be invalid and void.

115 **12. Any gas corporation whose ISRS is found by a court of**
116 **competent jurisdiction to include illegal and inappropriate charges**
117 **shall refund every current customer of the gas corporation who paid**
118 **such charges, before the gas corporation can file for a new ISRS.**

Section 1. The provisions of sections 393.1009 to 393.1015 shall
2 **expire on August 28, 2029.**

Section 2. As part of the gas corporation's first general rate
2 **proceeding after June 1, 2020, each gas corporation regulated by the**
3 **public service commission shall submit an evaluation, plan, or tariff**
4 **regarding the utilization of renewable natural gas. Plans may address**
5 **any or all of the following: renewable natural gas opportunities,**
6 **renewable natural gas infrastructure, customer benefits, emission**
7 **offsets, ratemaking mechanisms and tariff design, renewable natural**
8 **gas green attributes and market structure, and any other items deemed**
9 **relevant by the petitioning gas corporation.**

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