

SECOND REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE SUBSTITUTE NO. 2 FOR
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 745
101ST GENERAL ASSEMBLY

3566H.06C

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 44.032, 144.010, 144.011, 144.030, 386.266, 386.890, 393.1400, 393.1640, 393.1655, 442.404, and 610.021, RSMo, and to enact in lieu thereof fifteen new sections relating to public utilities, with a delayed effective date for a certain section.

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

Section A. Sections 44.032, 144.010, 144.011, 144.030, 386.266, 386.890, 393.1400, 2 393.1640, 393.1655, 442.404, and 610.021, RSMo, are repealed and fifteen new sections 3 enacted in lieu thereof, to be known as sections 44.032, 144.010, 144.011, 144.030, 386.266, 4 386.885, 386.890, 393.1072, 393.1275, 393.1400, 393.1640, 393.1655, 393.1656, 442.404, 5 and 610.021, to read as follows:

44.032. 1. **(1) As used in this section, the term "rural electric cooperative"** 2 **means any rural electric cooperative organized or operating under the provisions of** 3 **chapter 394, any corporation organized on a nonprofit or a cooperative basis as** 4 **described in subsection 1 of section 394.200, or any electrical corporation operating** 5 **under a cooperative business plan as described in subsection 2 of section 393.110.**

6 **(2) The general assembly recognizes the necessity for anticipating and making** 7 **advance provisions to care for the unusual and extraordinary burdens imposed by disasters** 8 **or emergencies on this state [and], its political subdivisions [by disasters or emergencies],** 9 **and rural electric cooperatives. To meet such situations, it is the intention of the general** 10 **assembly to confer emergency powers on the governor, acting through the director, and**

EXPLANATION — Matter enclosed in bold-faced brackets ~~thus~~ in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

11 vesting the governor with adequate power and authority within the limitation of available
12 funds in the Missouri disaster fund to meet any such emergency or disaster.

13 2. There is hereby established a fund to be known as the "Missouri Disaster Fund", to
14 which the general assembly may appropriate funds and from which funds may be
15 appropriated annually to the state emergency management agency. The funds appropriated
16 shall be expended during a state emergency at the direction of the governor and upon the
17 issuance of an emergency declaration which shall set forth the emergency and shall state that
18 it requires the expenditure of public funds to furnish immediate aid and relief. The director of
19 the state emergency management agency shall administer the fund.

20 3. Expenditures may be made upon direction of the governor for emergency
21 management, as defined in section 44.010, or to implement the state disaster plans.
22 Expenditures may also be made to meet the matching requirements of state and federal
23 agencies for any applicable assistance programs.

24 4. Assistance may be provided from the Missouri disaster fund to political
25 subdivisions of this state ~~which~~ **and rural electric cooperatives that** have suffered from a
26 disaster to such an extent as to impose a severe financial burden exceeding the ordinary
27 reserve capacity of the subdivision **or rural electric cooperative** affected. Applications for
28 aid under this section shall be made to the state emergency management agency on such
29 forms as may be prescribed and furnished by the agency, which forms shall require the
30 furnishing of sufficient information to determine eligibility for aid and the extent of the
31 financial burden incurred. The agency may call upon other agencies of the state in evaluating
32 such applications. The director of the state emergency management agency shall review each
33 application for aid under the provisions of this section and recommend its approval or
34 disapproval, in whole or in part, to the governor. If approved, the governor shall determine
35 and certify to the director of the state emergency management agency the amount of aid to be
36 furnished. The director of the state emergency management agency shall thereupon issue
37 ~~his~~ **the director's** voucher to the commissioner of administration, who shall issue ~~his~~ **the**
38 **commissioner's** warrants therefor to the applicant.

39 5. When a disaster or emergency has been proclaimed by the governor or there is a
40 national emergency, the director of the state emergency management agency, upon order of
41 the governor, shall have authority to expend funds for the following:

42 (1) The purposes of sections 44.010 to 44.130 and the responsibilities of the governor
43 and the state emergency management agency as outlined in sections 44.010 to 44.130;

44 (2) Employing, for the duration of the response and recovery to emergency, additional
45 personnel and contracting or otherwise procuring necessary appliances, supplies, equipment,
46 and transport;

47 (3) Performing services for and furnishing materials and supplies to state government
48 agencies, counties, ~~and~~ municipalities, **and rural electric cooperatives** with respect to
49 performance of any duties enjoined by law upon such agencies, counties, ~~and~~
50 municipalities, **and rural electric cooperatives** which they are unable to perform because
51 of extreme natural or man-made phenomena, and receiving reimbursement in whole or in part
52 from such agencies, counties, ~~and~~ municipalities, **and rural electric cooperatives** able to
53 pay therefor under such terms and conditions as may be agreed upon by the director of the
54 state emergency management agency and any such agency, county, ~~or~~ municipality, **or**
55 **rural electric cooperative**;

56 (4) Performing services for and furnishing materials to any individual in connection
57 with alleviating hardship and distress growing out of extreme natural or man-made
58 phenomena, and receiving reimbursement in whole or in part from such individual under such
59 terms as may be agreed upon by the director of the state emergency management agency and
60 such individual;

61 (5) Providing services to counties and municipalities with respect to quelling riots and
62 civil disturbances;

63 (6) Repairing and restoring public infrastructure;

64 (7) Furnishing transportation for supplies to alleviate suffering and distress;

65 (8) Furnishing medical services and supplies to prevent the spread of disease and
66 epidemics;

67 (9) Quelling riots and civil disturbances;

68 (10) Training individuals or governmental agencies for the purpose of perfecting the
69 performance of emergency assistance duties as defined in the state disaster plans;

70 (11) Procurement, storage, and transport of special emergency supplies or equipment
71 determined by the director to be necessary to provide rapid response by state government to
72 assist counties and municipalities in impending or actual emergencies;

73 (12) Clearing or removing from publicly or privately owned land or water, debris and
74 wreckage which may threaten public health or safety;

75 (13) Reimbursement to any urban search and rescue task force for any reasonable and
76 necessary expenditures incurred in the course of responding to any declared emergency under
77 this section; and

78 (14) Such other measures as are customarily necessary to furnish adequate relief in
79 cases of catastrophe or disaster.

80 6. The governor may receive such voluntary contributions as may be made from any
81 source to aid in carrying out the purposes of this section and shall credit the same to the
82 Missouri disaster fund.

83 7. All obligations and expenses incurred by the governor in the exercise of the powers
84 and duties vested by the provisions of this section shall be paid by the state treasurer out of
85 available funds in the Missouri disaster fund, and the commissioner of administration shall
86 draw warrants upon the state treasurer for the payment of such sum, or so much thereof as
87 may be required, upon receipt of proper vouchers provided by the director of the state
88 emergency management agency.

89 8. The provisions of this section shall be liberally construed in order to accomplish
90 the purposes of sections 44.010 to 44.130 and to permit the governor to cope adequately with
91 any emergency which may arise, and the powers vested in the governor by this section shall
92 be construed as being in addition to all other powers presently vested in the governor and not
93 in derogation of any existing powers.

94 9. Such funds as may be made available by the government of the United States for
95 the purpose of alleviating distress from disasters may be accepted by the state treasurer and
96 shall be credited to the Missouri disaster fund, unless otherwise specifically provided in the
97 act of Congress making such funds available.

98 10. The foregoing provisions of this section notwithstanding, any expenditure or
99 proposed series of expenditures which total in excess of one thousand dollars per project shall
100 be approved by the governor prior to the expenditure.

144.010. 1. The following words, terms, and phrases when used in sections 144.010
2 to 144.525 have the meanings ascribed to them in this section, except when the context
3 indicates a different meaning:

4 (1) "Admission" includes seats and tables, reserved or otherwise, and other similar
5 accommodations and charges made therefor and amount paid for admission, exclusive of any
6 admission tax imposed by the federal government or by sections 144.010 to 144.525;

7 (2) "Business" includes any activity engaged in by any person, or caused to be
8 engaged in by him, with the object of gain, benefit or advantage, either direct or indirect, and
9 the classification of which business is of such character as to be subject to the terms of
10 sections 144.010 to 144.525. A person is "engaging in business" in this state for purposes of
11 sections 144.010 to 144.525 if such person engages in business activities within this state or
12 maintains a place of business in this state under section 144.605. The isolated or occasional
13 sale of tangible personal property, service, substance, or thing, by a person not engaged in
14 such business, does not constitute engaging in business within the meaning of sections
15 144.010 to 144.525 unless the total amount of the gross receipts from such sales, exclusive of
16 receipts from the sale of tangible personal property by persons which property is sold in the
17 course of the partial or complete liquidation of a household, farm or nonbusiness enterprise,
18 exceeds three thousand dollars in any calendar year. The provisions of this subdivision shall

19 not be construed to make any sale of property which is exempt from sales tax or use tax on
20 June 1, 1977, subject to that tax thereafter;

21 (3) "Captive wildlife", includes but is not limited to exotic partridges, gray partridge,
22 northern bobwhite quail, ring-necked pheasant, captive waterfowl, captive white-tailed deer,
23 captive elk, and captive furbearers held under permit issued by the Missouri department of
24 conservation for hunting purposes. The provisions of this subdivision shall not apply to sales
25 tax on a harvested animal;

26 (4) "Gross receipts", except as provided in section 144.012, means the total amount of
27 the sale price of the sales at retail including any services other than charges incident to the
28 extension of credit that are a part of such sales made by the businesses herein referred to,
29 capable of being valued in money, whether received in money or otherwise; except that, the
30 term gross receipts shall not include the sale price of property returned by customers when the
31 full sale price thereof is refunded either in cash or by credit. In determining any tax due under
32 sections 144.010 to 144.525 on the gross receipts, charges incident to the extension of credit
33 shall be specifically exempted. For the purposes of sections 144.010 to 144.525 the total
34 amount of the sale price above mentioned shall be deemed to be the amount received. It shall
35 also include the lease or rental consideration where the right to continuous possession or use
36 of any article of tangible personal property is granted under a lease or contract and such
37 transfer of possession would be taxable if outright sale were made and, in such cases, the
38 same shall be taxable as if outright sale were made and considered as a sale of such article,
39 and the tax shall be computed and paid by the lessee upon the rentals paid. The term gross
40 receipts shall not include usual and customary delivery charges that are stated separately from
41 the sale price;

42 (5) "Instructional class", includes any class, lesson, or instruction intended or used for
43 teaching;

44 (6) "Livestock", cattle, calves, sheep, swine, ratite birds, including but not limited to,
45 ostrich and emu, aquatic products as described in section 277.024, llamas, alpaca, buffalo,
46 bison, elk documented as obtained from a legal source and not from the wild, goats, horses,
47 other equine, honey bees, or rabbits raised in confinement for human consumption;

48 (7) "Motor vehicle leasing company" shall be a company obtaining a permit from the
49 director of revenue to operate as a motor vehicle leasing company. Not all persons renting or
50 leasing trailers or motor vehicles need to obtain such a permit; however, no person failing to
51 obtain such a permit may avail itself of the optional tax provisions of subsection 5 of section
52 144.070, as hereinafter provided;

53 (8) "Person" includes any individual, firm, copartnership, joint adventure,
54 association, corporation, municipal or private, and whether organized for profit or not,
55 state, county, political subdivision, state department, commission, board, bureau or agency,

56 except the state transportation department, estate, trust, business trust, receiver or trustee
57 appointed by the state or federal court, syndicate, or any other group or combination acting as
58 a unit, and the plural as well as the singular number;

59 (9) "Product which is intended to be sold ultimately for final use or consumption"
60 means tangible personal property, or any service that is subject to state or local sales or use
61 taxes, or any tax that is substantially equivalent thereto, in this state or any other state;

62 (10) "Purchaser" means a person who purchases tangible personal property or to
63 whom are rendered services, receipts from which are taxable under sections 144.010 to
64 144.525;

65 (11) "Research or experimentation activities" are the development of an experimental
66 or pilot model, plant process, formula, invention or similar property, and the improvement of
67 existing property of such type. Research or experimentation activities do not include
68 activities such as ordinary testing or inspection of materials or products for quality control,
69 efficiency surveys, advertising promotions or research in connection with literary, historical
70 or similar projects;

71 (12) "Sale" or "sales" includes installment and credit sales, and the exchange of
72 properties as well as the sale thereof for money, every closed transaction constituting a sale,
73 and means any transfer, exchange or barter, conditional or otherwise, in any manner or by any
74 means whatsoever, of tangible personal property for valuable consideration and the rendering,
75 furnishing or selling for a valuable consideration any of the substances, things and services
76 herein designated and defined as taxable under the terms of sections 144.010 to 144.525;

77 (13) "Sale at retail" means any transfer made by any person engaged in business as
78 defined herein of the ownership of, or title to, tangible personal property to the purchaser, for
79 use or consumption and not for resale in any form as tangible personal property, for a valuable
80 consideration; except that, for the purposes of sections 144.010 to 144.525 and the tax
81 imposed thereby: (i) purchases of tangible personal property made by duly licensed
82 physicians, dentists, optometrists and veterinarians and used in the practice of their
83 professions shall be deemed to be purchases for use or consumption and not for resale; and
84 (ii) the selling of computer printouts, computer output or microfilm or microfiche and
85 computer-assisted photo compositions to a purchaser to enable the purchaser to obtain for his
86 or her own use the desired information contained in such computer printouts, computer output
87 on microfilm or microfiche and computer-assisted photo compositions shall be considered as
88 the sale of a service and not as the sale of tangible personal property. Where necessary to
89 conform to the context of sections 144.010 to 144.525 and the tax imposed thereby, the term
90 sale at retail shall be construed to embrace:

91 (a) Sales of admission tickets, cash admissions, charges and fees to or in places of
92 amusement, entertainment and recreation, games and athletic events, except amounts paid for
93 any instructional class;

94 (b) Sales of electricity, electrical current, water and gas, natural or artificial, to
95 domestic, commercial or industrial consumers, **except as provided in subdivision (12) of**
96 **subsection 1 of section 144.011;**

97 (c) Sales of local and long distance telecommunications service to
98 telecommunications subscribers and to others through equipment of telecommunications
99 subscribers for the transmission of messages and conversations, and the sale, rental or leasing
100 of all equipment or services pertaining or incidental thereto;

101 (d) Sales of service for transmission of messages by telegraph companies;

102 (e) Sales or charges for all rooms, meals and drinks furnished at any hotel, motel,
103 tavern, inn, restaurant, eating house, drugstore, dining car, tourist camp, tourist cabin, or other
104 place in which rooms, meals or drinks are regularly served to the public;

105 (f) Sales of tickets by every person operating a railroad, sleeping car, dining car,
106 express car, boat, airplane, and such buses and trucks as are licensed by the division of motor
107 carrier and railroad safety of the department of economic development of Missouri, engaged
108 in the transportation of persons for hire;

109 (14) "Seller" means a person selling or furnishing tangible personal property or
110 rendering services, on the receipts from which a tax is imposed pursuant to section 144.020;

111 (15) The noun "tax" means either the tax payable by the purchaser of a commodity or
112 service subject to tax, or the aggregate amount of taxes due from the vendor of such
113 commodities or services during the period for which he or she is required to report his or her
114 collections, as the context may require; and

115 (16) "Telecommunications service", for the purpose of this chapter, the transmission
116 of information by wire, radio, optical cable, coaxial cable, electronic impulses, or other
117 similar means. As used in this definition, "information" means knowledge or intelligence
118 represented by any form of writing, signs, signals, pictures, sounds, or any other symbols.
119 Telecommunications service does not include the following if such services are separately
120 stated on the customer's bill or on records of the seller maintained in the ordinary course of
121 business:

122 (a) Access to the internet, access to interactive computer services or electronic
123 publishing services, except the amount paid for the telecommunications service used to
124 provide such access;

125 (b) Answering services and one-way paging services;

126 (c) Private mobile radio services which are not two-way commercial mobile radio
127 services such as wireless telephone, personal communications services or enhanced
128 specialized mobile radio services as defined pursuant to federal law; or

129 (d) Cable or satellite television or music services.

130 2. For purposes of the taxes imposed under sections 144.010 to 144.525, and any
131 other provisions of law pertaining to sales or use taxes which incorporate the provisions of
132 sections 144.010 to 144.525 by reference, the term manufactured homes shall have the same
133 meaning given it in section 700.010.

134 3. Sections 144.010 to 144.525 may be known and quoted as the "Sales Tax Law".

144.011. 1. For purposes of this chapter, and the taxes imposed thereby, the
2 definition of "retail sale" or "sale at retail" shall not be construed to include any of the
3 following:

4 (1) The transfer by one corporation of substantially all of its tangible personal
5 property to another corporation pursuant to a merger or consolidation effected under the laws
6 of the state of Missouri or any other jurisdiction;

7 (2) The transfer of tangible personal property incident to the liquidation or cessation
8 of a taxpayer's trade or business, conducted in proprietorship, partnership or corporate form,
9 except to the extent any transfer is made in the ordinary course of the taxpayer's trade or
10 business;

11 (3) The transfer of tangible personal property to a corporation solely in exchange for
12 its stock or securities;

13 (4) The transfer of tangible personal property to a corporation by a shareholder as a
14 contribution to the capital of the transferee corporation;

15 (5) The transfer of tangible personal property to a partnership solely in exchange for a
16 partnership interest therein;

17 (6) The transfer of tangible personal property by a partner as a contribution to the
18 capital of the transferee partnership;

19 (7) The transfer of tangible personal property by a corporation to one or more of its
20 shareholders as a dividend, return of capital, distribution in the partial or complete liquidation
21 of the corporation or distribution in redemption of the shareholder's interest therein;

22 (8) The transfer of tangible personal property by a partnership to one or more of its
23 partners as a current distribution, return of capital or distribution in the partial or complete
24 liquidation of the partnership or of the partner's interest therein;

25 (9) The transfer of reusable containers used in connection with the sale of tangible
26 personal property contained therein for which a deposit is required and refunded on return;

27 (10) The purchase by persons operating eating or food service establishments, of
28 items of a nonreusable nature which are furnished to the customers of such establishments

29 with or in conjunction with the retail sales of their food or beverage. Such items shall
30 include, but not be limited to, wrapping or packaging materials and nonreusable paper, wood,
31 plastic and aluminum articles such as containers, trays, napkins, dishes, silverware, cups,
32 bags, boxes, straws, sticks and toothpicks;

33 (11) The purchase by persons operating hotels, motels or other transient
34 accommodation establishments, of items of a nonreusable nature which are furnished to
35 the guests in the guests' rooms of such establishments and such items are included in the
36 charge made for such accommodations. Such items shall include, but not be limited to, soap,
37 shampoo, tissue and other toiletries and food or confectionery items offered to the guests
38 without charge;

39 (12) **The purchase by persons operating hotels, motels, or other transient**
40 **accommodation establishments of electricity, electrical current, water, and gas, whether**
41 **natural or artificial, which are used to heat, cool, or provide water or power to the**
42 **guests' accommodations of such establishments, including sleeping rooms, meeting and**
43 **banquet rooms, and any other customer space rented by guests, and which are included**
44 **in the charge made for such accommodations. Any person required to remit sales tax on**
45 **such purchases prior to August 28, 2022, shall be entitled to a refund on such taxes**
46 **remitted;**

47 (13) The transfer of a manufactured home other than:

48 (a) A transfer which involves the delivery of the document known as the
49 "Manufacturer's Statement of Origin" to a person other than a manufactured home dealer, as
50 defined in section 700.010, for purposes of allowing such person to obtain a title to the
51 manufactured home from the department of revenue of this state or the appropriate agency or
52 officer of any other state;

53 (b) A transfer which involves the delivery of a "Repossessed Title" to a resident of
54 this state if the tax imposed by this chapter was not paid on the transfer of the manufactured
55 home described in paragraph (a) of this subdivision;

56 (c) The first transfer which occurs after December 31, 1985, if the tax imposed by this
57 chapter was not paid on any transfer of the same manufactured home which occurred before
58 December 31, 1985; or

59 [~~13~~] (14) Charges for initiation fees or dues to:

60 (a) Fraternal beneficiaries societies, or domestic fraternal societies, orders or
61 associations operating under the lodge system a substantial part of the activities of which are
62 devoted to religious, charitable, scientific, literary, educational or fraternal purposes;

63 (b) Posts or organizations of past or present members of the Armed Forces of the
64 United States or an auxiliary unit or society of, or a trust or foundation for, any such post or
65 organization substantially all of the members of which are past or present members of the

66 Armed Forces of the United States or who are cadets, spouses, widows, or widowers of past
67 or present members of the Armed Forces of the United States, no part of the net earnings of
68 which inures to the benefit of any private shareholder or individual; or

69 (c) Nonprofit organizations exempt from taxation under Section 501(c)(7) of the
70 Internal Revenue Code of 1986, as amended.

71 2. The assumption of liabilities of the transferor by the transferee incident to any of
72 the transactions enumerated in the above subdivisions (1) to (8) of subsection 1 of this section
73 shall not disqualify the transfer from the exclusion described in this section, where such
74 liability assumption is related to the property transferred and where the assumption does not
75 have as its principal purpose the avoidance of Missouri sales or use tax.

144.030. 1. There is hereby specifically exempted from the provisions of sections
2 144.010 to 144.525 and from the computation of the tax levied, assessed or payable pursuant
3 to sections 144.010 to 144.525 such retail sales as may be made in commerce between this
4 state and any other state of the United States, or between this state and any foreign country,
5 and any retail sale which the state of Missouri is prohibited from taxing pursuant to the
6 Constitution or laws of the United States of America, and such retail sales of tangible
7 personal property which the general assembly of the state of Missouri is prohibited from
8 taxing or further taxing by the constitution of this state.

9 2. There are also specifically exempted from the provisions of the local sales tax law
10 as defined in section 32.085, section 238.235, and sections 144.010 to 144.525 and 144.600 to
11 144.761 and from the computation of the tax levied, assessed or payable pursuant to the local
12 sales tax law as defined in section 32.085, section 238.235, and sections 144.010 to 144.525
13 and 144.600 to 144.745:

14 (1) Motor fuel or special fuel subject to an excise tax of this state, unless all or part of
15 such excise tax is refunded pursuant to section 142.824; or upon the sale at retail of fuel to be
16 consumed in manufacturing or creating gas, power, steam, electrical current or in furnishing
17 water to be sold ultimately at retail; or feed for livestock or poultry; or grain to be converted
18 into foodstuffs which are to be sold ultimately in processed form at retail; or seed, limestone
19 or fertilizer which is to be used for seeding, liming or fertilizing crops which when harvested
20 will be sold at retail or will be fed to livestock or poultry to be sold ultimately in processed
21 form at retail; economic poisons registered pursuant to the provisions of the Missouri
22 pesticide registration law, sections 281.220 to 281.310, which are to be used in connection
23 with the growth or production of crops, fruit trees or orchards applied before, during, or after
24 planting, the crop of which when harvested will be sold at retail or will be converted into
25 foodstuffs which are to be sold ultimately in processed form at retail;

26 (2) Materials, manufactured goods, machinery and parts which when used in
27 manufacturing, processing, compounding, mining, producing or fabricating become a

28 component part or ingredient of the new personal property resulting from such
29 manufacturing, processing, compounding, mining, producing or fabricating and which new
30 personal property is intended to be sold ultimately for final use or consumption; and
31 materials, including without limitation, gases and manufactured goods, including without
32 limitation slagging materials and firebrick, which are ultimately consumed in the
33 manufacturing process by blending, reacting or interacting with or by becoming, in whole
34 or in part, component parts or ingredients of steel products intended to be sold ultimately for
35 final use or consumption;

36 (3) Materials, replacement parts and equipment purchased for use directly upon, and
37 for the repair and maintenance or manufacture of, motor vehicles, watercraft, railroad rolling
38 stock or aircraft engaged as common carriers of persons or property;

39 (4) Replacement machinery, equipment, and parts and the materials and supplies
40 solely required for the installation or construction of such replacement machinery, equipment,
41 and parts, used directly in manufacturing, mining, fabricating or producing a product which is
42 intended to be sold ultimately for final use or consumption; and machinery and equipment,
43 and the materials and supplies required solely for the operation, installation or construction of
44 such machinery and equipment, purchased and used to establish new, or to replace or expand
45 existing, material recovery processing plants in this state. For the purposes of this
46 subdivision, a "material recovery processing plant" means a facility that has as its primary
47 purpose the recovery of materials into a usable product or a different form which is used in
48 producing a new product and shall include a facility or equipment which are used exclusively
49 for the collection of recovered materials for delivery to a material recovery processing plant
50 but shall not include motor vehicles used on highways. For purposes of this section, the terms
51 motor vehicle and highway shall have the same meaning pursuant to section 301.010. For the
52 purposes of this subdivision, subdivision (5) of this subsection, and section 144.054, as well
53 as the definition in subdivision (9) of subsection 1 of section 144.010, the term "product"
54 includes telecommunications services and the term "manufacturing" shall include the
55 production, or production and transmission, of telecommunications services. The preceding
56 sentence does not make a substantive change in the law and is intended to clarify that the term
57 "manufacturing" has included and continues to include the production and transmission of
58 "telecommunications services", as enacted in this subdivision and subdivision (5) of this
59 subsection, as well as the definition in subdivision (9) of subsection 1 of section 144.010.
60 The preceding two sentences reaffirm legislative intent consistent with the interpretation of
61 this subdivision and subdivision (5) of this subsection in *Southwestern Bell Tel. Co. v.*
62 *Director of Revenue*, 78 S.W.3d 763 (Mo. banc 2002) and *Southwestern Bell Tel. Co. v.*
63 *Director of Revenue*, 182 S.W.3d 226 (Mo. banc 2005), and accordingly abrogates the
64 Missouri supreme court's interpretation of those exemptions in *IBM Corporation v. Director*

65 *of Revenue*, 491 S.W.3d 535 (Mo. banc 2016) to the extent inconsistent with this section and
66 *Southwestern Bell Tel. Co. v. Director of Revenue*, 78 S.W.3d 763 (Mo. banc 2002) and
67 *Southwestern Bell Tel. Co. v. Director of Revenue*, 182 S.W.3d 226 (Mo. banc 2005). The
68 construction and application of this subdivision as expressed by the Missouri supreme court
69 in *DST Systems, Inc. v. Director of Revenue*, 43 S.W.3d 799 (Mo. banc 2001); *Southwestern*
70 *Bell Tel. Co. v. Director of Revenue*, 78 S.W.3d 763 (Mo. banc 2002); and *Southwestern Bell*
71 *Tel. Co. v. Director of Revenue*, 182 S.W.3d 226 (Mo. banc 2005), is hereby affirmed.
72 Material recovery is not the reuse of materials within a manufacturing process or the use of a
73 product previously recovered. The material recovery processing plant shall qualify under the
74 provisions of this section regardless of ownership of the material being recovered;

75 (5) Machinery and equipment, and parts and the materials and supplies solely
76 required for the installation or construction of such machinery and equipment, purchased and
77 used to establish new or to expand existing manufacturing, mining or fabricating plants in the
78 state if such machinery and equipment is used directly in manufacturing, mining or
79 fabricating a product which is intended to be sold ultimately for final use or consumption.
80 The construction and application of this subdivision as expressed by the Missouri supreme
81 court in *DST Systems, Inc. v. Director of Revenue*, 43 S.W.3d 799 (Mo. banc 2001);
82 *Southwestern Bell Tel. Co. v. Director of Revenue*, 78 S.W.3d 763 (Mo. banc 2002); and
83 *Southwestern Bell Tel. Co. v. Director of Revenue*, 182 S.W.3d 226 (Mo. banc 2005), is
84 hereby affirmed;

85 (6) Tangible personal property which is used exclusively in the manufacturing,
86 processing, modification or assembling of products sold to the United States government or to
87 any agency of the United States government;

88 (7) Animals or poultry used for breeding or feeding purposes, or captive wildlife;

89 (8) Newsprint, ink, computers, photosensitive paper and film, toner, printing plates
90 and other machinery, equipment, replacement parts and supplies used in producing
91 newspapers published for dissemination of news to the general public;

92 (9) The rentals of films, records or any type of sound or picture transcriptions for
93 public commercial display;

94 (10) Pumping machinery and equipment used to propel products delivered by
95 pipelines engaged as common carriers;

96 (11) Railroad rolling stock for use in transporting persons or property in interstate
97 commerce and motor vehicles licensed for a gross weight of twenty-four thousand pounds or
98 more or trailers used by common carriers, as defined in section 390.020, in the transportation
99 of persons or property;

100 (12) Electrical energy used in the actual primary manufacture, processing,
101 compounding, mining or producing of a product, or electrical energy used in the actual

102 secondary processing or fabricating of the product, or a material recovery processing plant as
103 defined in subdivision (4) of this subsection, in facilities owned or leased by the taxpayer, if
104 the total cost of electrical energy so used exceeds ten percent of the total cost of production,
105 either primary or secondary, exclusive of the cost of electrical energy so used or if the raw
106 materials used in such processing contain at least twenty-five percent recovered materials as
107 defined in section 260.200. There shall be a rebuttable presumption that the raw materials
108 used in the primary manufacture of automobiles contain at least twenty-five percent
109 recovered materials. For purposes of this subdivision, "processing" means any mode of
110 treatment, act or series of acts performed upon materials to transform and reduce them to a
111 different state or thing, including treatment necessary to maintain or preserve such processing
112 by the producer at the production facility;

113 (13) Anodes which are used or consumed in manufacturing, processing,
114 compounding, mining, producing or fabricating and which have a useful life of less than
115 one year;

116 (14) Machinery, equipment, appliances and devices purchased or leased and used
117 solely for the purpose of preventing, abating or monitoring air pollution, and materials and
118 supplies solely required for the installation, construction or reconstruction of such machinery,
119 equipment, appliances and devices;

120 (15) Machinery, equipment, appliances and devices purchased or leased and used
121 solely for the purpose of preventing, abating or monitoring water pollution, and materials and
122 supplies solely required for the installation, construction or reconstruction of such machinery,
123 equipment, appliances and devices;

124 (16) Tangible personal property purchased by a rural water district;

125 (17) All amounts paid or charged for admission or participation or other fees paid by
126 or other charges to individuals in or for any place of amusement, entertainment or recreation,
127 games or athletic events, including museums, fairs, zoos and planetariums, owned or operated
128 by a municipality or other political subdivision where all the proceeds derived therefrom
129 benefit the municipality or other political subdivision and do not inure to any private person,
130 firm, or corporation, provided, however, that a municipality or other political subdivision may
131 enter into revenue-sharing agreements with private persons, firms, or corporations providing
132 goods or services, including management services, in or for the place of amusement,
133 entertainment or recreation, games or athletic events, and provided further that nothing in this
134 subdivision shall exempt from tax any amounts retained by any private person, firm, or
135 corporation under such revenue-sharing agreement;

136 (18) All sales of insulin, and all sales, rentals, repairs, and parts of durable medical
137 equipment, prosthetic devices, and orthopedic devices as defined on January 1, 1980, by the
138 federal Medicare program pursuant to Title XVIII of the Social Security Act of 1965,

139 including the items specified in Section 1862(a)(12) of that act, and also specifically
140 including hearing aids and hearing aid supplies and all sales of drugs which may be legally
141 dispensed by a licensed pharmacist only upon a lawful prescription of a practitioner licensed
142 to administer those items, including samples and materials used to manufacture samples
143 which may be dispensed by a practitioner authorized to dispense such samples and all sales or
144 rental of medical oxygen, home respiratory equipment and accessories including parts, and
145 hospital beds and accessories and ambulatory aids including parts, and all sales or rental of
146 manual and powered wheelchairs including parts, and stairway lifts, Braille writers, electronic
147 Braille equipment and, if purchased or rented by or on behalf of a person with one or more
148 physical or mental disabilities to enable them to function more independently, all sales or
149 rental of scooters including parts, and reading machines, electronic print enlargers and
150 magnifiers, electronic alternative and augmentative communication devices, and items used
151 solely to modify motor vehicles to permit the use of such motor vehicles by individuals with
152 disabilities or sales of over-the-counter or nonprescription drugs to individuals with
153 disabilities, and drugs required by the Food and Drug Administration to meet the over-the-
154 counter drug product labeling requirements in 21 CFR 201.66, or its successor, as prescribed
155 by a health care practitioner licensed to prescribe;

156 (19) All sales made by or to religious and charitable organizations and institutions in
157 their religious, charitable or educational functions and activities and all sales made by or to all
158 elementary and secondary schools operated at public expense in their educational functions
159 and activities;

160 (20) All sales of aircraft to common carriers for storage or for use in interstate
161 commerce and all sales made by or to not-for-profit civic, social, service or fraternal
162 organizations, including fraternal organizations which have been declared tax-exempt
163 organizations pursuant to Section 501(c)(8) or (10) of the 1986 Internal Revenue Code, as
164 amended, in their civic or charitable functions and activities and all sales made to
165 eleemosynary and penal institutions and industries of the state, and all sales made to any
166 private not-for-profit institution of higher education not otherwise excluded pursuant to
167 subdivision (19) of this subsection or any institution of higher education supported by public
168 funds, and all sales made to a state relief agency in the exercise of relief functions and
169 activities;

170 (21) All ticket sales made by benevolent, scientific and educational associations
171 which are formed to foster, encourage, and promote progress and improvement in the science
172 of agriculture and in the raising and breeding of animals, and by nonprofit summer theater
173 organizations if such organizations are exempt from federal tax pursuant to the provisions of
174 the Internal Revenue Code and all admission charges and entry fees to the Missouri state fair

175 or any fair conducted by a county agricultural and mechanical society organized and operated
176 pursuant to sections 262.290 to 262.530;

177 (22) All sales made to any private not-for-profit elementary or secondary school, all
178 sales of feed additives, medications or vaccines administered to livestock or poultry in the
179 production of food or fiber, all sales of pesticides used in the production of crops, livestock or
180 poultry for food or fiber, all sales of bedding used in the production of livestock or poultry for
181 food or fiber, all sales of propane or natural gas, electricity or diesel fuel used exclusively for
182 drying agricultural crops, natural gas used in the primary manufacture or processing of fuel
183 ethanol as defined in section 142.028, natural gas, propane, and electricity used by an eligible
184 new generation cooperative or an eligible new generation processing entity as defined in
185 section 348.432, and all sales of farm machinery and equipment, other than airplanes, motor
186 vehicles and trailers, and any freight charges on any exempt item. As used in this
187 subdivision, the term "feed additives" means tangible personal property which, when mixed
188 with feed for livestock or poultry, is to be used in the feeding of livestock or poultry. As used
189 in this subdivision, the term "pesticides" includes adjuvants such as crop oils, surfactants,
190 wetting agents and other assorted pesticide carriers used to improve or enhance the effect of a
191 pesticide and the foam used to mark the application of pesticides and herbicides for the
192 production of crops, livestock or poultry. As used in this subdivision, the term "farm
193 machinery and equipment" means new or used farm tractors and such other new or used farm
194 machinery and equipment and repair or replacement parts thereon and any accessories for and
195 upgrades to such farm machinery and equipment, rotary mowers used exclusively for
196 agricultural purposes, and supplies and lubricants used exclusively, solely, and directly for
197 producing crops, raising and feeding livestock, fish, poultry, pheasants, chukar, quail, or for
198 producing milk for ultimate sale at retail, including field drain tile, and one-half of each
199 purchaser's purchase of diesel fuel therefor which is:

200 (a) Used exclusively for agricultural purposes;

201 (b) Used on land owned or leased for the purpose of producing farm products; and

202 (c) Used directly in producing farm products to be sold ultimately in processed form
203 or otherwise at retail or in producing farm products to be fed to livestock or poultry to be sold
204 ultimately in processed form at retail;

205 (23) Except as otherwise provided in section 144.032, all sales of metered water
206 service, electricity, electrical current, natural, artificial or propane gas, wood, coal or home
207 heating oil for domestic use and in any city not within a county, all sales of metered or
208 unmetered water service for domestic use:

209 (a) "Domestic use" means that portion of metered water service, electricity, electrical
210 current, natural, artificial or propane gas, wood, coal or home heating oil, and in any city not
211 within a county, metered or unmetered water service, which an individual occupant of a

212 residential premises uses for nonbusiness, noncommercial or nonindustrial purposes. Utility
213 service through a single or master meter for residential apartments or condominiums,
214 including service for common areas and facilities and vacant units, shall be deemed to be for
215 domestic use. Each seller shall establish and maintain a system whereby individual purchases
216 are determined as exempt or nonexempt;

217 (b) Regulated utility sellers shall determine whether individual purchases are exempt
218 or nonexempt based upon the seller's utility service rate classifications as contained in tariffs
219 on file with and approved by the Missouri public service commission. Sales and purchases
220 made pursuant to the rate classification "residential" and sales to and purchases made by or on
221 behalf of the occupants of residential apartments or condominiums through a single or master
222 meter, including service for common areas and facilities and vacant units, shall be considered
223 as sales made for domestic use and such sales shall be exempt from sales tax. Sellers shall
224 charge sales tax upon the entire amount of purchases classified as nondomestic use. The
225 seller's utility service rate classification and the provision of service thereunder shall be
226 conclusive as to whether or not the utility must charge sales tax;

227 (c) Each person making domestic use purchases of services or property and who uses
228 any portion of the services or property so purchased for a nondomestic use shall, by the
229 fifteenth day of the fourth month following the year of purchase, and without assessment,
230 notice or demand, file a return and pay sales tax on that portion of nondomestic purchases.
231 Each person making nondomestic purchases of services or property and who uses any portion
232 of the services or property so purchased for domestic use, and each person making domestic
233 purchases on behalf of occupants of residential apartments or condominiums through a single
234 or master meter, including service for common areas and facilities and vacant units, under a
235 nonresidential utility service rate classification may, between the first day of the first month
236 and the fifteenth day of the fourth month following the year of purchase, apply for credit or
237 refund to the director of revenue and the director shall give credit or make refund for taxes
238 paid on the domestic use portion of the purchase. The person making such purchases on
239 behalf of occupants of residential apartments or condominiums shall have standing to apply to
240 the director of revenue for such credit or refund;

241 (24) All sales of handicraft items made by the seller or the seller's spouse if the seller
242 or the seller's spouse is at least sixty-five years of age, and if the total gross proceeds from
243 such sales do not constitute a majority of the annual gross income of the seller;

244 (25) Excise taxes, collected on sales at retail, imposed by Sections 4041, 4071, 4081,
245 4091, 4161, 4181, 4251, 4261 and 4271 of Title 26, United States Code. The director of
246 revenue shall promulgate rules pursuant to chapter 536 to eliminate all state and local sales
247 taxes on such excise taxes;

248 (26) Sales of fuel consumed or used in the operation of ships, barges, or waterborne
249 vessels which are used primarily in or for the transportation of property or cargo, or the
250 conveyance of persons for hire, on navigable rivers bordering on or located in part in this
251 state, if such fuel is delivered by the seller to the purchaser's barge, ship, or waterborne vessel
252 while it is afloat upon such river;

253 (27) All sales made to an interstate compact agency created pursuant to sections
254 70.370 to 70.441 or sections 238.010 to 238.100 in the exercise of the functions and activities
255 of such agency as provided pursuant to the compact;

256 (28) Computers, computer software and computer security systems purchased for use
257 by architectural or engineering firms headquartered in this state. For the purposes of this
258 subdivision, "headquartered in this state" means the office for the administrative management
259 of at least four integrated facilities operated by the taxpayer is located in the state of Missouri;

260 (29) All livestock sales when either the seller is engaged in the growing, producing or
261 feeding of such livestock, or the seller is engaged in the business of buying and selling,
262 bartering or leasing of such livestock;

263 (30) All sales of barges which are to be used primarily in the transportation of
264 property or cargo on interstate waterways;

265 (31) Electrical energy or gas, whether natural, artificial or propane, water, or other
266 utilities which are ultimately consumed in connection with the manufacturing of cellular glass
267 products or in any material recovery processing plant as defined in subdivision (4) of this
268 subsection;

269 (32) Notwithstanding other provisions of law to the contrary, all sales of pesticides or
270 herbicides used in the production of crops, aquaculture, livestock or poultry;

271 (33) Tangible personal property and utilities purchased for use or consumption
272 directly or exclusively in the research and development of agricultural/biotechnology and
273 plant genomics products and prescription pharmaceuticals consumed by humans or animals;

274 (34) All sales of grain bins for storage of grain for resale;

275 (35) All sales of feed which are developed for and used in the feeding of pets owned
276 by a commercial breeder when such sales are made to a commercial breeder, as defined in
277 section 273.325, and licensed pursuant to sections 273.325 to 273.357;

278 (36) All purchases by a contractor on behalf of an entity located in another state,
279 provided that the entity is authorized to issue a certificate of exemption for purchases to a
280 contractor under the provisions of that state's laws. For purposes of this subdivision, the term
281 "certificate of exemption" shall mean any document evidencing that the entity is exempt from
282 sales and use taxes on purchases pursuant to the laws of the state in which the entity is
283 located. Any contractor making purchases on behalf of such entity shall maintain a copy of
284 the entity's exemption certificate as evidence of the exemption. If the exemption certificate

285 issued by the exempt entity to the contractor is later determined by the director of revenue to
286 be invalid for any reason and the contractor has accepted the certificate in good faith, neither
287 the contractor or the exempt entity shall be liable for the payment of any taxes, interest and
288 penalty due as the result of use of the invalid exemption certificate. Materials shall be exempt
289 from all state and local sales and use taxes when purchased by a contractor for the purpose of
290 fabricating tangible personal property which is used in fulfilling a contract for the purpose of
291 constructing, repairing or remodeling facilities for the following:

292 (a) An exempt entity located in this state, if the entity is one of those entities able to
293 issue project exemption certificates in accordance with the provisions of section 144.062; or

294 (b) An exempt entity located outside the state if the exempt entity is authorized to
295 issue an exemption certificate to contractors in accordance with the provisions of that state's
296 law and the applicable provisions of this section;

297 (37) All sales or other transfers of tangible personal property to a lessor who leases
298 the property under a lease of one year or longer executed or in effect at the time of the sale or
299 other transfer to an interstate compact agency created pursuant to sections 70.370 to 70.441 or
300 sections 238.010 to 238.100;

301 (38) Sales of tickets to any collegiate athletic championship event that is held in a
302 facility owned or operated by a governmental authority or commission, a quasi-governmental
303 agency, a state university or college or by the state or any political subdivision thereof,
304 including a municipality, and that is played on a neutral site and may reasonably be played at
305 a site located outside the state of Missouri. For purposes of this subdivision, "neutral site"
306 means any site that is not located on the campus of a conference member institution
307 participating in the event;

308 (39) All purchases by a sports complex authority created under section 64.920, and all
309 sales of utilities by such authority at the authority's cost that are consumed in connection with
310 the operation of a sports complex leased to a professional sports team;

311 (40) All materials, replacement parts, and equipment purchased for use directly upon,
312 and for the modification, replacement, repair, and maintenance of aircraft, aircraft power
313 plants, and aircraft accessories;

314 (41) Sales of sporting clays, wobble, skeet, and trap targets to any shooting range or
315 similar places of business for use in the normal course of business and money received by a
316 shooting range or similar places of business from patrons and held by a shooting range or
317 similar place of business for redistribution to patrons at the conclusion of a shooting event;

318 (42) All sales of motor fuel, as defined in section 142.800, used in any watercraft, as
319 defined in section 306.010;

320 (43) Any new or used aircraft sold or delivered in this state to a person who is not a
321 resident of this state or a corporation that is not incorporated in this state, and such aircraft is

322 not to be based in this state and shall not remain in this state more than ten business days
323 subsequent to the last to occur of:

324 (a) The transfer of title to the aircraft to a person who is not a resident of this state or a
325 corporation that is not incorporated in this state; or

326 (b) The date of the return to service of the aircraft in accordance with 14 CFR 91.407
327 for any maintenance, preventive maintenance, rebuilding, alterations, repairs, or installations
328 that are completed contemporaneously with the transfer of title to the aircraft to a person who
329 is not a resident of this state or a corporation that is not incorporated in this state;

330 (44) Motor vehicles registered in excess of fifty-four thousand pounds, and the
331 trailers pulled by such motor vehicles, that are actually used in the normal course of business
332 to haul property on the public highways of the state, and that are capable of hauling loads
333 commensurate with the motor vehicle's registered weight; and the materials, replacement
334 parts, and equipment purchased for use directly upon, and for the repair and maintenance or
335 manufacture of such vehicles. For purposes of this subdivision, "motor vehicle" and "public
336 highway" shall have the meaning as ascribed in section 390.020;

337 (45) All internet access or the use of internet access regardless of whether the tax is
338 imposed on a provider of internet access or a buyer of internet access. For purposes of this
339 subdivision, the following terms shall mean:

340 (a) "Direct costs", costs incurred by a governmental authority solely because of an
341 internet service provider's use of the public right-of-way. The term shall not include costs that
342 the governmental authority would have incurred if the internet service provider did not make
343 such use of the public right-of-way. Direct costs shall be determined in a manner consistent
344 with generally accepted accounting principles;

345 (b) "Internet", computer and telecommunications facilities, including equipment and
346 operating software, that comprises the interconnected worldwide network that employ the
347 transmission control protocol or internet protocol, or any predecessor or successor protocols
348 to that protocol, to communicate information of all kinds by wire or radio;

349 (c) "Internet access", a service that enables users to connect to the internet to access
350 content, information, or other services without regard to whether the service is referred to as
351 telecommunications, communications, transmission, or similar services, and without regard to
352 whether a provider of the service is subject to regulation by the Federal Communications
353 Commission as a common carrier under 47 U.S.C. Section 201, et seq. For purposes of this
354 subdivision, internet access also includes: the purchase, use, or sale of communications
355 services, including telecommunications services as defined in section 144.010, to the extent
356 the communications services are purchased, used, or sold to provide the service described in
357 this subdivision or to otherwise enable users to access content, information, or other services
358 offered over the internet; services that are incidental to the provision of a service described in

359 this subdivision, when furnished to users as part of such service, including a home page,
360 electronic mail, and instant messaging, including voice-capable and video-capable electronic
361 mail and instant messaging, video clips, and personal electronic storage capacity; a home
362 page electronic mail and instant messaging, including voice-capable and video-capable
363 electronic mail and instant messaging, video clips, and personal electronic storage capacity
364 that are provided independently or that are not packed with internet access. As used in this
365 subdivision, internet access does not include voice, audio, and video programming or other
366 products and services, except services described in this paragraph or this subdivision, that use
367 internet protocol or any successor protocol and for which there is a charge, regardless of
368 whether the charge is separately stated or aggregated with the charge for services described in
369 this paragraph or this subdivision;

370 (d) "Tax", any charge imposed by the state or a political subdivision of the state for
371 the purpose of generating revenues for governmental purposes and that is not a fee imposed
372 for a specific privilege, service, or benefit conferred, except as described as otherwise under
373 this subdivision, or any obligation imposed on a seller to collect and to remit to the state or a
374 political subdivision of the state any gross retail tax, sales tax, or use tax imposed on a buyer
375 by such a governmental entity. The term tax shall not include any franchise fee or similar fee
376 imposed or authorized under section 67.1830 or 67.2689; Section 622 or 653 of the
377 Communications Act of 1934, 47 U.S.C. Section 542 and 47 U.S.C. Section 573; or any other
378 fee related to obligations of telecommunications carriers under the Communications Act of
379 1934, 47 U.S.C. Section 151, et seq., except to the extent that:

380 a. The fee is not imposed for the purpose of recovering direct costs incurred by the
381 franchising or other governmental authority from providing the specific privilege, service, or
382 benefit conferred to the payer of the fee; or

383 b. The fee is imposed for the use of a public right-of-way based on a percentage of the
384 service revenue, and the fee exceeds the incremental direct costs incurred by the
385 governmental authority associated with the provision of that right-of-way to the provider
386 of internet access service.

387

388 Nothing in this subdivision shall be interpreted as an exemption from taxes due on goods or
389 services that were subject to tax on January 1, 2016;

390 **(46) All purchases by a Missouri company of solar photovoltaic energy**
391 **equipment used to construct a solar photovoltaic energy system and all purchases of**
392 **materials and supplies used directly to construct or make improvements to such**
393 **systems, provided that such systems:**

394 **(a) Allow for energy storage;**

395 **(b) Include advanced or smart meter inverter capacity; or**

396 (c) Are projects greater than twenty megawatts.

397

398 For the purposes of this subdivision, the term "Missouri company" shall mean any
399 corporation or other business organization that is registered with the secretary of state.

400 3. Any ruling, agreement, or contract, whether written or oral, express or implied,
401 between a person and this state's executive branch, or any other state agency or department,
402 stating, agreeing, or ruling that such person is not required to collect sales and use tax in this
403 state despite the presence of a warehouse, distribution center, or fulfillment center in this state
404 that is owned or operated by the person or an affiliated person shall be null and void unless it
405 is specifically approved by a majority vote of each of the houses of the general assembly. For
406 purposes of this subsection, an "affiliated person" means any person that is a member of the
407 same controlled group of corporations as defined in Section 1563(a) of the Internal Revenue
408 Code of 1986, as amended, as the vendor or any other entity that, notwithstanding its form of
409 organization, bears the same ownership relationship to the vendor as a corporation that is a
410 member of the same controlled group of corporations as defined in Section 1563(a) of the
411 Internal Revenue Code, as amended.

386.266. 1. Subject to the requirements of this section, any electrical corporation
2 may make an application to the commission to approve rate schedules authorizing an interim
3 energy charge, or periodic rate adjustments outside of general rate proceedings to reflect
4 increases and decreases in its prudently incurred fuel and purchased-power costs, including
5 transportation. The commission may, in accordance with existing law, include in such rate
6 schedules features designed to provide the electrical corporation with incentives to improve
7 the efficiency and cost-effectiveness of its fuel and purchased-power procurement activities.

8 2. Subject to the requirements of this section, any electrical, gas, or water corporation
9 may make an application to the commission to approve rate schedules authorizing periodic
10 rate adjustments outside of general rate proceedings to reflect increases and decreases in its
11 prudently incurred costs, whether capital or expense, to comply with any federal, state, or
12 local environmental law, regulation, or rule. Any rate adjustment made under such rate
13 schedules shall not exceed an annual amount equal to two and one-half percent of the
14 electrical, gas, or water corporation's Missouri gross jurisdictional revenues, excluding gross
15 receipts tax, sales tax and other similar pass-through taxes not included in tariffed rates, for
16 regulated services as established in the utility's most recent general rate case or complaint
17 proceeding. In addition to the rate adjustment, the electrical, gas, or water corporation shall
18 be permitted to collect any applicable gross receipts tax, sales tax, or other similar pass-
19 through taxes, and such taxes shall not be counted against the two and one-half percent rate
20 adjustment cap. Any costs not recovered as a result of the annual two and one-half percent
21 limitation on rate adjustments may be deferred, at a carrying cost each month equal to the

22 utilities net of tax cost of capital, for recovery in a subsequent year or in the corporation's next
23 general rate case or complaint proceeding.

24 3. Subject to the requirements of this section, any gas or electrical corporation may
25 make an application to the commission to approve rate schedules authorizing periodic rate
26 adjustments outside of general rate proceedings to adjust rates of customers in eligible
27 customer classes to account for the impact on utility revenues of increases or decreases in
28 residential and commercial customer usage due to variations in either weather, conservation,
29 or both. ~~[No electrical corporation shall make an application to the commission under this
30 subsection if such corporation has provided notice to the commission under subsection 5 of
31 section 393.1400.]~~ For purposes of this section: for electrical corporations, "eligible
32 customer classes" means the residential class and classes that are not demand metered; and for
33 gas corporations, "eligible customer classes" means the residential class and the smallest
34 general service class. As used in this subsection, "revenues" means the revenues recovered
35 through base rates, and does not include revenues collected through a rate adjustment
36 mechanism authorized by this section or any other provisions of law. This subsection shall
37 apply to electrical corporations beginning January 1, 2019, and shall expire for electrical
38 corporations on January 1, 2029. **An electrical corporation may make a one-time
39 application to the commission under this subsection if such corporation has provided
40 notice to the commission under subsection 5 of section 393.1400, provided the
41 corporation shall not concurrently utilize electric rate adjustments under this
42 subsection and the deferrals set forth in subsection 5 of section 393.1400.**

43 4. Subject to the requirements of this section, a water corporation with more than
44 eight thousand Missouri retail customers may make an application to the commission to
45 approve rate schedules authorizing periodic rate adjustments outside of general rate
46 proceedings to ensure revenues billed by such water corporation for regulated services equal
47 the revenue requirement for regulated services as established in the water corporation's most
48 recent general rate proceeding or complaint proceeding, excluding any other commission-
49 approved surcharges and gross receipts tax, sales tax, and other similar pass-through taxes not
50 included in tariffed rates, due to any revenue variation resulting from increases or decreases in
51 residential, commercial, public authority, and sale for resale usage.

52 5. The commission shall have the power to approve, modify, or reject adjustment
53 mechanisms submitted under subsections 1 to 4 of this section only after providing the
54 opportunity for a full hearing in a general rate proceeding, including a general rate proceeding
55 initiated by complaint. The commission may approve such rate schedules after considering
56 all relevant factors which may affect the costs or overall rates and charges of the corporation,
57 provided that it finds that the adjustment mechanism set forth in the schedules:

58 (1) Is reasonably designed to provide the utility with a sufficient opportunity to earn a
59 fair return on equity;

60 (2) Includes provisions for an annual true-up which shall accurately and appropriately
61 remedy any over- or under-collections, including interest at the utility's short-term borrowing
62 rate, through subsequent rate adjustments or refunds;

63 (3) In the case of an adjustment mechanism submitted under subsections 1 and 2 of
64 this section, includes provisions requiring that the utility file a general rate case with the
65 effective date of new rates to be no later than four years after the effective date of the
66 commission order implementing the adjustment mechanism. However, with respect to each
67 mechanism, the four-year period shall not include any periods in which the utility is
68 prohibited from collecting any charges under the adjustment mechanism, or any period for
69 which charges collected under the adjustment mechanism must be fully refunded. In the
70 event a court determines that the adjustment mechanism is unlawful and all moneys collected
71 thereunder are fully refunded, the utility shall be relieved of any obligation under that
72 adjustment mechanism to file a rate case;

73 (4) In the case of an adjustment mechanism submitted under subsection 1 or 2 of this
74 section, includes provisions for prudence reviews of the costs subject to the adjustment
75 mechanism no less frequently than at eighteen-month intervals, and shall require refund of
76 any imprudently incurred costs plus interest at the utility's short-term borrowing rate.

77 6. Once such an adjustment mechanism is approved by the commission under this
78 section, it shall remain in effect until such time as the commission authorizes the
79 modification, extension, or discontinuance of the mechanism in a general rate case or
80 complaint proceeding.

81 7. Any amounts charged under any adjustment mechanism approved by the
82 commission under this section shall be separately disclosed on each customer bill.

83 8. The commission may take into account any change in business risk to the
84 corporation resulting from implementation of the adjustment mechanism in setting the
85 corporation's allowed return in any rate proceeding, in addition to any other changes in
86 business risk experienced by the corporation.

87 9. In the event the commission lawfully approves an incentive- or performance-based
88 plan, such plan shall be binding on the commission for the entire term of the plan. This
89 subsection shall not be construed to authorize or prohibit any incentive- or performance-based
90 plan.

91 10. Prior to August 28, 2005, for subsections 1 to 3 of this section, and upon August
92 28, 2018, for subsection 4 of this section, the commission shall have the authority to
93 promulgate rules under the provisions of chapter 536 as it deems necessary, to govern the
94 structure, content and operation of such rate adjustments, and the procedure for the

95 submission, frequency, examination, hearing and approval of such rate adjustments. Any
96 electrical, gas, or water corporation may apply for any adjustment mechanism under this
97 section whether or not the commission has promulgated any such rules.

98 11. Nothing contained in this section shall be construed as affecting any existing
99 adjustment mechanism, rate schedule, tariff, incentive plan, or other ratemaking mechanism
100 currently approved and in effect.

101 12. Each of the provisions of this section is severable. In the event any provision or
102 subsection of this section is deemed unlawful, all remaining provisions shall remain in effect.

103 13. The provisions of subsections 1 to 3 of this section shall take effect on January 1,
104 2006, and the commission shall have previously promulgated rules to implement the
105 application process for any rate adjustment mechanism under subsections 1 to 3 of this
106 section prior to the commission issuing an order for any such rate adjustment.

107 14. The public service commission shall appoint a task force, consisting of all
108 interested parties, to study and make recommendations on the cost recovery and
109 implementation of conservation and weatherization programs for electrical and gas
110 corporations.

111 15. (1) Each public utility operating under a mechanism proposed and approved
112 under subsection 3 of this section shall quarterly file a surveillance monitoring, consisting of
113 five parts. Each part, except the rate-base quantifications report, shall contain information for
114 the last twelve-month period and the last quarter data for total company electric operations
115 and Missouri jurisdictional operations. Rate-base quantifications shall contain only
116 information for the ending date of the period being reported.

117 (2) Part one of the surveillance monitoring report shall be the rate-base
118 quantifications report. The quantification of rate-base items in part one shall be consistent
119 with the methods or procedures used in the most recent rate proceeding unless otherwise
120 specified. The report shall consist of specific rate-base quantifications of:

- 121 (a) Plant in service;
- 122 (b) Reserve for depreciation;
- 123 (c) Materials and supplies;
- 124 (d) Cash working capital;
- 125 (e) Fuel inventory, if applicable;
- 126 (f) Prepayments;
- 127 (g) Other regulatory assets;
- 128 (h) Customer advances;
- 129 (i) Customer deposits;
- 130 (j) Accumulated deferred income taxes;

- 131 (k) Any other item included in the electrical corporation's rate base in its most recent
132 rate proceeding;
- 133 (l) Net operating income from part three; and
- 134 (m) Calculation of the overall return on rate base.
- 135 (3) Part two of the surveillance monitoring report shall be the capitalization
136 quantifications report, which shall consist of specific capitalization quantifications of:
- 137 (a) Common stock equity (net);
- 138 (b) Preferred stock, par or stated value outstanding;
- 139 (c) Long-term debt, including current maturities;
- 140 (d) Short-term debt; and
- 141 (e) Weighted cost of capital, including component costs.
- 142 (4) Part three of the surveillance monitoring report shall be the income statement,
143 which shall consist of an income statement containing specific quantification of:
- 144 (a) Operating revenues to include sales to industrial, commercial, and residential
145 customers, sales for resale, and other components of total operating revenues;
- 146 (b) Operating and maintenance expenses for fuel expense, production expenses,
147 purchased power energy and capacity, if applicable;
- 148 (c) Transmission expenses;
- 149 (d) Distribution expenses;
- 150 (e) Customer accounts expenses;
- 151 (f) Customer service and information expenses;
- 152 (g) Sales expenses;
- 153 (h) Administrative and general expenses;
- 154 (i) Depreciation, amortization, and decommissioning expense;
- 155 (j) Taxes other than income taxes;
- 156 (k) Income taxes; and
- 157 (l) Quantification of heating degree and cooling degree days, actual and normal.
- 158 (5) Part four of the surveillance monitoring report shall be the jurisdictional allocation
159 factor report, which shall consist of a listing of jurisdictional allocation factors for the rate
160 base, capitalization quantification reports, and income statement.
- 161 (6) Part five of the surveillance monitoring report shall be the financial data notes,
162 which shall consist of notes to financial data including, but not limited to:
- 163 (a) Out of period adjustments;
- 164 (b) Specific quantification of material variances between actual and budget financial
165 performance;
- 166 (c) Material variances between current twelve-month period and prior twelve-month
167 period revenue;

- 168 (d) Expense level of items ordered by the commission to be tracked under the order
169 establishing the rate adjustment mechanism;
- 170 (e) Budgeted capital projects; and
- 171 (f) Events that materially affect debt or equity surveillance components.
- 172 (7) This subsection shall expire on January 1, 2029.

**386.885. 1. There is hereby established the "Task Force on Distributed Energy
2 Resources and Net Metering", which shall be composed of the following members:**

- 3 (1) Two members of the senate, with one appointed by the president pro tempore
4 of the senate and one appointed by the minority floor leader of the senate;
- 5 (2) Two members of the house of representatives, with one appointed by the
6 speaker of the house of representatives and one appointed by the minority floor leader
7 of the house of representatives;
- 8 (3) The director of the division of energy, or his or her designee, to serve as a
9 member and to provide technical assistance to the task force;
- 10 (4) The chair of the public service commission, or his or her designee, to serve as
11 a member and to provide technical assistance;
- 12 (5) The director of the office of public counsel, or his or her designee, to serve as
13 a member and to provide technical assistance;
- 14 (6) A representative from each of the three segments of the retail electric energy
15 industry appointed by the president pro tempore of the senate from the respective
16 nominees submitted by the statewide associations of the investor-owned electric utilities,
17 rural electric cooperatives, and municipally-owned electric utilities;
- 18 (7) One representative of the retail distributed energy resources industry
19 appointed by the chair of the public service commission;
- 20 (8) One representative from an organization that advocates for policy
21 supporting renewable energy development appointed by the chair of the public
22 service commission; and
- 23 (9) One representative from an organization that advocates for the interests of
24 low-income utility customers appointed by the chair of the public service commission.

25 **2. The task force shall conduct public hearings and research, and shall compile a
26 report for delivery to the general assembly by no later than December 31, 2023. Such
27 report shall include information on the following:**

- 28 (1) A distributed energy resources study, which shall include a value of solar
29 study along with the practical and economic benefits, challenges, and drawbacks of
30 increased distributed energy generation in the state;

31 **(2) Potential legislation regarding community solar as operated by non-utility**
32 **entities and the fair and equitable setting of rates between distributed generation and**
33 **non-distributed generation consumers; and**

34 **(3) Potential legislation, including but not limited to changes to the Net Metering**
35 **and Easy Connection Act, if any, that would promote the overall public interest.**

36 **3. The task force shall meet within thirty days after its creation and shall**
37 **organize by selecting a chairperson and vice chairperson, one of whom shall be a**
38 **member of the senate and the other a member of the house of representatives.**
39 **Thereafter, the task force may meet as often as necessary in order to accomplish the**
40 **tasks assigned to it. A majority of the task force shall constitute a quorum, and a**
41 **majority vote of such quorum shall be required for any action.**

42 **4. The staff of house research and senate research shall provide necessary**
43 **clerical, research, fiscal, and legal services to the task force, as the task force may**
44 **request.**

45 **5. The division of energy shall oversee the distributed energy resources study to**
46 **be selected and conducted by an independent and objective expert with input from the**
47 **members of the task force. The cost of such study shall be paid for through funds**
48 **available from federal and state grants applied for by the division of energy. The**
49 **division of energy shall establish procedures for the submission and non-public**
50 **disclosure of confidential and proprietary information.**

51 **6. The members of the task force shall serve without compensation, but may be**
52 **reimbursed for any actual and necessary expenses incurred in the performance of the**
53 **task force's official duties.**

54 **7. This section shall expire on December 31, 2023, or at the conclusion of the task**
55 **force's work, whichever is sooner.**

386.890. 1. This section shall be known and may be cited as the "Net Metering and
2 Easy Connection Act".

3 2. As used in this section, the following terms shall mean:

4 (1) "Avoided fuel cost", the current average cost of fuel for the entity generating
5 electricity, as defined by the governing body with jurisdiction over any municipal electric
6 utility, rural electric cooperative as provided in chapter 394, or electrical corporation as
7 provided in this chapter;

8 (2) "Commission", the public service commission of the state of Missouri;

9 (3) "Customer-generator", the owner or operator of a qualified electric energy
10 generation unit which:

11 (a) Is powered by a renewable energy resource;

12 (b) Has an electrical generating system with a capacity of not more than one hundred
13 kilowatts;

14 (c) Is located on a premises owned, operated, leased, or otherwise controlled by the
15 customer-generator;

16 (d) Is interconnected and operates in parallel phase and synchronization with a retail
17 electric supplier and has been approved by said retail electric supplier;

18 (e) Is intended primarily to offset part or all of the customer-generator's own electrical
19 energy requirements;

20 (f) Meets all applicable safety, performance, interconnection, and reliability standards
21 established by the National Electrical Code, the National Electrical Safety Code, the Institute
22 of Electrical and Electronics Engineers, Underwriters Laboratories, the Federal Energy
23 Regulatory Commission, and any local governing authorities; and

24 (g) Contains a mechanism that automatically disables the unit and interrupts the flow
25 of electricity back onto the supplier's electricity lines in the event that service to the customer-
26 generator is interrupted;

27 (4) "Department", the department of ~~[economic development]~~ **natural resources**;

28 (5) "Net metering", using metering equipment sufficient to measure the difference
29 between the electrical energy supplied to a customer-generator by a retail electric supplier and
30 the electrical energy supplied by the customer-generator to the retail electric supplier over the
31 applicable billing period;

32 (6) "Renewable energy resources", electrical energy produced from wind, solar
33 thermal sources, hydroelectric sources, photovoltaic cells and panels, fuel cells using
34 hydrogen produced by one of the above-named electrical energy sources, and other sources of
35 energy that become available after August 28, 2007, and are certified as renewable by the
36 department;

37 (7) "Retail electric supplier" or "supplier", any ~~[municipal]~~ **municipally owned**
38 **electric utility operating under chapter 91**, electrical corporation regulated by the
39 **commission** under this chapter, or rural electric cooperative **operating** under chapter 394 that
40 provides retail electric service in this state. **An electrical corporation that operates under a**
41 **cooperative business plan as described in subsection 2 of section 393.110 shall be deemed**
42 **to be a rural electric cooperative for purposes of this section.**

43 3. A retail electric supplier shall:

44 (1) Make net metering available to customer-generators on a first-come, first-served
45 basis until the total rated generating capacity of net metering systems equals five percent of
46 the ~~[utility's]~~ **retail electric supplier's** single-hour peak load during the previous year, after
47 which the commission for ~~[a public utility]~~ **an electrical corporation** or the **respective**
48 governing body ~~[for]~~ **of other [electric utilities] retail electric suppliers** may increase the

49 total rated generating capacity of net metering systems to an amount above five percent.
50 However, in a given calendar year, no retail electric supplier shall be required to approve any
51 application for interconnection if the total rated generating capacity of all applications for
52 interconnection already approved to date by said supplier in said calendar year equals or
53 exceeds one percent of said supplier's single-hour peak load for the previous calendar year;

54 (2) Offer to the customer-generator a tariff or contract that is identical in electrical
55 energy rates, rate structure, and monthly charges to the contract or tariff that the customer
56 would be assigned if the customer were not an eligible customer-generator but shall not
57 charge the customer-generator any additional standby, capacity, interconnection, or other fee
58 or charge that would not otherwise be charged if the customer were not an eligible customer-
59 generator; and

60 (3) Disclose annually the availability of the net metering program to each of its
61 customers with the method and manner of disclosure being at the discretion of the supplier.

62 4. A customer-generator's facility shall be equipped with sufficient metering
63 equipment that can measure the net amount of electrical energy produced or consumed by the
64 customer-generator. If the customer-generator's existing meter equipment does not meet
65 these requirements or if it is necessary for the **retail** electric supplier to install additional
66 distribution equipment to accommodate the customer-generator's facility, the customer-
67 generator shall reimburse the retail electric supplier for the costs to purchase and install the
68 necessary additional equipment. At the request of the customer-generator, such costs may be
69 initially paid for by the retail electric supplier, and any amount up to the total costs and a
70 reasonable interest charge may be recovered from the customer-generator over the course of
71 up to twelve billing cycles. Any subsequent meter testing, maintenance or meter equipment
72 change necessitated by the customer-generator shall be paid for by the customer-generator.

73 5. Consistent with the provisions in this section, the net electrical energy
74 measurement shall be calculated in the following manner:

75 (1) For a customer-generator, a retail electric supplier shall measure the net electrical
76 energy produced or consumed during the billing period in accordance with normal metering
77 practices for customers in the same rate class, either by employing a single, bidirectional
78 meter that measures the amount of electrical energy produced and consumed, or by
79 employing multiple meters that separately measure the customer-generator's consumption and
80 production of electricity;

81 (2) If the electricity supplied by the supplier exceeds the electricity generated by the
82 customer-generator during a billing period, the customer-generator shall be billed for the net
83 electricity supplied by the supplier in accordance with normal practices for customers in the
84 same rate class;

85 (3) If the electricity generated by the customer-generator exceeds the electricity
86 supplied by the supplier during a billing period, the customer-generator shall be billed for the
87 appropriate customer charges for that billing period in accordance with subsection 3 of this
88 section and shall be credited an amount at least equal to the avoided fuel cost of the excess
89 kilowatt-hours generated during the billing period, with this credit applied to the following
90 billing period;

91 (4) Any credits granted by this subsection shall expire without any compensation at
92 the earlier of either twelve months after their issuance or when the customer-generator
93 disconnects service or terminates the net metering relationship with the supplier;

94 (5) For any rural electric cooperative under chapter 394, or ~~[municipal]~~ **any**
95 **municipally owned** utility, upon agreement of the wholesale generator supplying electric
96 energy to the retail electric supplier, at the option of the retail electric supplier, the credit to
97 the customer-generator may be provided by the wholesale generator.

98 6. (1) Each qualified electric energy generation unit used by a customer-generator
99 shall meet all applicable safety, performance, interconnection, and reliability standards
100 established by any local code authorities, the National Electrical Code, the National Electrical
101 Safety Code, the Institute of Electrical and Electronics Engineers, and Underwriters
102 Laboratories for distributed generation. No supplier shall impose any fee, charge, or other
103 requirement not specifically authorized by this section or the rules promulgated under
104 subsection 9 of this section unless the fee, charge, or other requirement would apply to
105 similarly situated customers who are not customer-generators, except that a retail electric
106 supplier may require that a customer-generator's system contain a switch, circuit breaker,
107 fuse, or other easily accessible device or feature located in immediate proximity to the
108 customer-generator's metering equipment that would allow a utility worker the ability to
109 manually and instantly disconnect the unit from the utility's electric distribution system.

110 (2) For systems of ten kilowatts or less, a customer-generator whose system meets the
111 standards and rules under subdivision (1) of this subsection shall not be required to install
112 additional controls, perform or pay for additional tests or distribution equipment, or purchase
113 additional liability insurance beyond what is required under subdivision (1) of this subsection
114 and subsection 4 of this section.

115 (3) For customer-generator systems of greater than ten kilowatts, the commission for
116 ~~[public utilities]~~ **electrical corporations** and the **respective** governing body for other
117 ~~[utilities]~~ **retail electric suppliers** shall, by rule or equivalent formal action by each
118 respective governing body:

119 (a) Set forth safety, performance, and reliability standards and requirements; and

120 (b) Establish the qualifications for exemption from a requirement to install additional
121 controls, perform or pay for additional tests or distribution equipment, or purchase additional
122 liability insurance.

123 7. (1) Applications by a customer-generator for interconnection of a qualified electric
124 energy generation unit meeting the requirements of subdivision (3) of subsection 2 of this
125 section to the distribution system shall be accompanied by the plan for the customer-
126 generator's electrical generating system, including but not limited to a wiring diagram and
127 specifications for the generating unit, and shall be reviewed and responded to by the retail
128 electric supplier within thirty days of receipt for systems ten kilowatts or less and within
129 ninety days of receipt for all other systems. Prior to the interconnection of the qualified
130 generation unit to the supplier's system, the customer-generator will furnish the retail electric
131 supplier a certification from a qualified professional electrician or engineer that the
132 installation meets the requirements of subdivision (1) of subsection 6 of this section. If the
133 application for interconnection is approved by the retail electric supplier and the customer-
134 generator does not complete the interconnection within one year after receipt of notice of the
135 approval, the approval shall expire and the customer-generator shall be responsible for filing a
136 new application.

137 (2) Upon the change in ownership of a qualified electric energy generation unit, the
138 new customer-generator shall be responsible for filing a new application under subdivision
139 (1) of this subsection.

140 8. Each [~~commission-regulated-supplier~~] **electrical corporation** shall submit an
141 annual net metering report to the commission, and all other [~~nonregulated~~] **retail electric**
142 suppliers shall submit the same report to their respective governing body and make said report
143 available to a consumer of the supplier upon request, including the following information for
144 the previous calendar year:

145 (1) The total number of customer-generator facilities;

146 (2) The total estimated generating capacity of its net-metered customer-generators;
147 and

148 (3) The total estimated net kilowatt-hours received from customer-generators.

149 9. The commission shall, within nine months of January 1, 2008, promulgate initial
150 rules necessary for the administration of this section for [~~public-utilities~~] **electrical**
151 **corporations**, which shall include regulations ensuring that simple contracts will be used for
152 interconnection and net metering. For systems of ten kilowatts or less, the application process
153 shall use an all-in-one document that includes a simple interconnection request, simple
154 procedures, and a brief set of terms and conditions. Any rule or portion of a rule, as that term
155 is defined in section 536.010, that is created under the authority delegated in this section shall
156 become effective only if it complies with and is subject to all of the provisions of chapter 536

157 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any
158 of the powers vested with the general assembly under chapter 536 to review, to delay the
159 effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then
160 the grant of rulemaking authority and any rule proposed or adopted after August 28, 2007,
161 shall be invalid and void.

162 10. The governing body of a rural electric cooperative or municipal utility shall,
163 within nine months of January 1, 2008, adopt policies establishing a simple contract to be
164 used for interconnection and net metering. For systems of ten kilowatts or less, the
165 application process shall use an all-in-one document that includes a simple interconnection
166 request, simple procedures, and a brief set of terms and conditions.

167 11. For any cause of action relating to any damages to property or person caused by
168 the **qualified electric energy** generation unit of a customer-generator or the interconnection
169 thereof, the retail electric supplier shall have no liability absent clear and convincing evidence
170 of fault on the part of the supplier.

171 12. The estimated generating capacity of all net metering systems operating under the
172 provisions of this section shall count towards the respective retail electric supplier's
173 accomplishment of any renewable energy portfolio target or mandate adopted by the Missouri
174 general assembly.

175 13. The sale of qualified electric **energy** generation units to any customer-generator
176 shall be subject to the provisions of sections **407.010 to 407.145 and sections 407.700 to**
177 **407.720**. The attorney general shall have the authority to promulgate in accordance with the
178 provisions of chapter 536 rules regarding mandatory disclosures of information by sellers of
179 qualified electric **energy** generation units. Any interested person who believes that the seller
180 of any **qualified** electric **energy** generation unit is misrepresenting the safety or performance
181 standards of any such systems, or who believes that any electric **energy** generation unit poses
182 a danger to any property or person, may report the same to the attorney general, who shall be
183 authorized to investigate such claims and take any necessary and appropriate actions.

184 14. Any costs incurred under this act by a retail electric supplier shall be recoverable
185 in that utility's rate structure.

186 15. No consumer shall connect or operate ~~an~~ **a qualified** electric **energy** generation
187 unit in parallel phase and synchronization with any retail electric supplier without written
188 approval by said supplier that all of the requirements under subdivision (1) of subsection 7 of
189 this section have been met. For a consumer who violates this provision, a supplier may
190 immediately and without notice disconnect the electric facilities of said consumer and
191 terminate said consumer's electric service.

192 16. The manufacturer of any **qualified** electric **energy** generation unit used by a
193 customer-generator may be held liable for any damages to property or person caused by a
194 defect in the **qualified** electric **energy** generation unit of a customer-generator.

195 17. The seller, installer, or manufacturer of any **qualified** electric **energy** generation
196 unit who knowingly misrepresents the safety aspects of ~~[a]~~ a **qualified** electric generation
197 unit may be held liable for any damages to property or person caused by the **qualified** electric
198 **energy** generation unit of a customer-generator.

**393.1072. 1. There is hereby established the "Task Force on Fair,
2 Nondiscriminatory Local Taxation Concerning Solar Energy Systems", which shall be
3 composed of the following members:**

4 **(1) Three members of the house of representatives, with not more than two
5 members from the same political party and each member to be appointed by the
6 speaker of the house of representatives;**

7 **(2) Three members of the senate, with not more than two members from the
8 same political party and each member to be appointed by the president pro tempore of
9 the senate;**

10 **(3) Two currently elected county assessors from Missouri county governments,
11 with one to be appointed by the speaker of the house of representatives and one to be
12 appointed by the president pro tempore of the senate;**

13 **(4) Two representatives from the Missouri state tax commission to be appointed
14 by the commissioners of the Missouri state tax commission;**

15 **(5) Two representatives from a state-wide agricultural organization, with one to
16 be appointed by the speaker of the house of representatives and one to be appointed by
17 the president pro tempore of the senate;**

18 **(6) Two representatives from the private sector with experience in utility-scale
19 solar energy development and operation, with one to be appointed by the speaker of the
20 house of representatives and one to be appointed by the president pro tempore of the
21 senate; and**

22 **(7) One member from an organization that advocates for policy supporting solar
23 energy appointed by the chair of the public service commission.**

24 **2. The task force shall conduct public hearings and research and compile a
25 report for delivery to the general assembly before December 31, 2022. Such report shall
26 include information on the following:**

27 **(1) The economic benefits and drawbacks of solar energy systems to local
28 communities and the state;**

29 **(2) The fair, uniform, and standardized assessment and taxation of solar energy**
30 **systems and their connected equipment owned by a retail or wholesale provider of**
31 **electricity at the county level in all counties;**

32 **(3) Compliance with existing federal and state programs and regulations; and**

33 **(4) Potential legislation that will provide a uniform assessment and taxation**
34 **methodology for solar energy systems and their connected equipment owned by a retail**
35 **or wholesale provider of electricity that will be used in every county of Missouri.**

36 **3. The task force shall meet within thirty days after its creation and shall**
37 **organize by selecting a chair and vice chair, one of whom shall be a member of the**
38 **senate and the other a member of the house of representatives. Thereafter, the task**
39 **force may meet as often as necessary in order to accomplish the tasks assigned to it.**
40 **Meetings may be held by telephone or video conference at the discretion of the chair.**
41 **The chair shall designate a person to keep the records of the task force. A majority of**
42 **the task force shall constitute a quorum, and a majority vote of such quorum shall be**
43 **required for any action.**

44 **4. The staff of house research and senate research shall provide necessary**
45 **clerical, research, fiscal, and legal services to the task force as the task force may**
46 **request.**

47 **5. The members of the task force shall serve without compensation, but any**
48 **actual and necessary expenses incurred by the task force, its members, and any staff**
49 **assigned to the task force shall be reimbursed.**

50 **6. This section shall expire on December 31, 2022.**

393.1275. 1. The provisions of section 386.020 defining words, phrases, and
2 **terms shall apply to and determine the meaning of all such words, phrases, or terms as**
3 **used in this section.**

4 **2. Electrical corporations, gas corporations, sewer corporations, and water**
5 **corporations shall defer to a regulatory asset or liability account any difference in state**
6 **or local property tax expenses actually incurred, and those on which the revenue**
7 **requirement used to set rates in the corporation's most recently completed general rate**
8 **proceeding was based. The regulatory asset or liability account balances shall be**
9 **included in the revenue requirement used to set rates through an amortization over a**
10 **reasonable period of time in such corporation's subsequent general rate proceedings.**
11 **The commission shall also adjust the rate base used to establish the revenue**
12 **requirement of such corporation to reflect the unamortized regulatory asset or**
13 **liability account balances in such general rate proceedings. Such expenditures deferred**
14 **under the provisions of this section are subject to commission prudence review in the**
15 **next general rate proceeding after deferral.**

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

- 2 (1) "Commission", the public service commission;
 - 3 (2) "Electrical corporation", the same as defined in section 386.020, but shall not
4 include an electrical corporation as described in subsection 2 of section 393.110;
 - 5 (3) "Qualifying electric plant", all rate-base additions, except rate-base additions for
6 new coal-fired generating units, new nuclear generating units, new natural gas units, or rate-
7 base additions that increase revenues by allowing service to new customer premises;
 - 8 (4) "Rate-base cutoff date", the date rate-base additions are accounted for in a general
9 rate proceeding. In the absence of a commission order that specifies the rate-base cutoff date,
10 such date as reflected in any jointly proposed procedural schedule submitted by the parties in
11 the applicable general rate proceeding, or as otherwise agreed to by such parties, shall be
12 used;
 - 13 (5) "Weighted average cost of capital", the return on rate base used to determine the
14 revenue requirement in the electrical corporation's most recently completed general rate
15 proceeding; provided, that in the absence of a commission determination of the return on rate
16 base within the three-year period prior to August 28, ~~[2018]~~ **2022**, the weighted average cost
17 of capital shall be determined using the electrical corporation's actual capital structure as of
18 December 31, ~~[2017]~~ **2021**, excluding short-term debt, the electrical corporation's actual cost
19 of long-term debt and preferred stock as of December 31, ~~[2017]~~ **2021**, and a cost of common
20 equity of nine and one-half percent.
- 21 2. (1) Notwithstanding any other provision of this chapter to the contrary, electrical
22 corporations shall defer to a regulatory asset eighty-five percent of all depreciation expense
23 and return associated with all qualifying electric plant recorded to plant-in-service on the
24 utility's books commencing on or after August 28, 2018, if the electrical corporation has made
25 the election provided for by subsection 5 of this section by that date, or on the date such
26 election is made if the election is made after August 28, 2018. In each general rate
27 proceeding concluded after August 28, 2018, the balance of the regulatory asset as of the rate-
28 base cutoff date shall, **subject only to the cap provided for in section 393.1655 or section**
29 **393.1656, as applicable**, be included in the electrical corporation's rate base without any
30 offset, reduction, or adjustment based upon consideration of any other factor, other than as
31 provided for in subdivision (2) of this subsection, with the regulatory asset balance arising
32 from deferrals associated with qualifying electric plant placed in service after the rate-base
33 cutoff date to be included in rate base in the next general rate proceeding. The expiration of
34 this section shall not affect the continued inclusion in rate base and amortization of regulatory
35 asset balances that arose under this section prior to such expiration.
- 36 (2) The regulatory asset balances arising under this section shall be adjusted to reflect
37 any prudence disallowances ordered by the commission. The provisions of this section shall

38 not be construed to affect existing law respecting the burdens of production and persuasion in
39 general rate proceedings for rate-base additions.

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

46 3. (1) Depreciation expense deferred under this section shall account for all
47 qualifying electric plant placed into service less retirements of plant replaced by such
48 qualifying electric plant.

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

55 4. Beginning February 28, 2019, and by each February twenty-eighth thereafter while
56 the electrical corporation is allowed to make the deferrals provided for by subsection 2 of this
57 section, electrical corporations that defer depreciation expense and return authorized under
58 this section shall submit to the commission a five-year capital investment plan setting forth
59 the general categories of capital expenditures the electrical corporation will pursue in
60 furtherance of replacing, modernizing, and securing its infrastructure. The plan shall also
61 include a specific capital investment plan for the first year of the five-year plan consistent
62 with the level of specificity used for annual capital budgeting purposes. **For each project in**
63 **the specific capital investment plan on which construction commences on or after**
64 **January first of the year in which the plan is submitted, and where the cost of the**
65 **project is estimated to exceed twenty million dollars, the electrical corporation shall**
66 **identify all costs and benefits that can be quantitatively evaluated and shall further**
67 **identify how those costs and benefits are quantified. For any cost or benefit with respect**
68 **to such a project that the electrical corporation believes cannot be quantitatively**
69 **evaluated, the electrical corporation shall state the reasons the cost or benefit cannot be**
70 **quantitatively evaluated, and how the electrical corporation addresses such costs and**
71 **benefits when reviewing and deciding to pursue such a project. No such project shall be**
72 **based solely on costs and benefits that the electrical corporation believes cannot be**
73 **quantitatively evaluated. Any quantification for such a project that does not produce**
74 **quantified benefits exceeding the costs shall be accompanied by additional justification**

75 **in support of the project.** For each of the first five years that an electrical corporation is
76 allowed to make the deferrals provided for by subsection 2 of this section, the purchase and
77 installation of smart meters shall constitute no more than six percent of the electrical
78 corporation's total capital expenditures during any given year under the corporation's specific
79 capital investment plan. At least twenty-five percent of the cost of each year's capital
80 investment plan shall be comprised of grid modernization projects, including but not limited
81 to:

82 (1) Increased use of digital information and controls technology to improve
83 reliability, security, and efficiency of the electric grid;

84 (2) Dynamic optimization of grid operations and resources, with full cybersecurity;

85 (3) Deployment and integration of distributed resources and generation, including
86 renewable resources;

87 (4) Development and incorporation of demand response, demand-side resources, and
88 energy-efficiency resources;

89 (5) Deployment of smart technologies (real-time, automated, interactive technologies
90 that optimize the physical operation of appliances and consumer devices) for metering,
91 communications, concerning grid operations and status, and distribution automation;

92 (6) Integration of smart appliances and devices;

93 (7) Deployment and integration of advanced electricity storage and peak-shaving
94 technologies, including plug-in electric and hybrid electric vehicles, and thermal storage air
95 conditioning;

96 (8) Provision of timely information and control options to consumer;

97 (9) Development of standards for communication and interoperability of appliances
98 and equipment connected to the electric grid, including the infrastructure serving the grid; and

99 (10) Identification and lowering of unreasonable or unnecessary barriers to adoption
100 of smart grid technologies, practices, and services.

101

102 Project specific information need not be included for the five-year period covered by the plan.
103 Within thirty days of the filing of any capital investment plan or annual update to an existing
104 plan, the electrical corporation shall host a public stakeholder meeting to answer questions
105 and receive feedback about the plan. After feedback is received, the electrical corporation
106 shall file a notice with the commission of any modifications to the capital investment plan it
107 has accepted. Changes to the plan, its implementation, or the level of investments made shall
108 not constitute evidence of imprudence of the investments made under such plan. The
109 submission of a capital investment plan under this section shall not affect in any way the
110 commission's authority with respect to the grant or denial of a certificate of convenience and
111 necessity under section 393.170. By February twenty-eighth following each year in which

112 the electrical corporation submits a capital investment plan, the electrical corporation shall
113 submit a report to the commission detailing actual capital investments made the previous
114 year, **the quantitatively evaluated benefits and costs generated by each of those**
115 **investments that exceeded twenty million dollars, and any efficiencies achieved as a**
116 **result of those investments.**

117 5. This section shall only apply to any electrical corporation that has filed a notice
118 with the commission of the electrical corporation's election to make the deferrals for which
119 this section provides. ~~[No electrical corporation shall file a notice with the commission under~~
120 ~~this subsection if such corporation has made an application under subsection 3 of section~~
121 ~~386.266, and such application has been approved.] **An electrical corporation may provide**~~
122 **notice to the commission one time under this subsection if such corporation has applied**
123 **to the commission under subsection 2 of section 386.266, provided the corporation shall**
124 **not concurrently utilize deferrals under this subsection and the electric rate adjustments**
125 **set forth in subsection 3 of section 386.266.** An electrical corporation's election shall allow
126 it to make the deferrals provided for by subsection 2 ~~[of this section until December 31, 2023~~
127 ~~, unless the electrical corporation requests and the commission approves the continuation of~~
128 ~~such deferrals beyond that date and approves continuation of the discounts authorized by~~
129 ~~section 393.1640 beyond that date as hereinafter provided. An electrical corporation that~~
130 ~~wishes to continue to make the deferrals provided for by subsection 2 of this section from~~
131 ~~January 1, 2024, through December 31, 2028, shall obtain the commission's approval to do~~
132 ~~so, shall be subject to the compound annual growth rate limitations set forth under section~~
133 ~~393.1655, and shall also obtain the commission's approval to continue to provide the~~
134 ~~discounts authorized by section 393.1640 in a commission order issued on or before~~
135 ~~December 31, 2023. The commission shall have the authority to grant or deny such approval~~
136 ~~based upon the commission's evaluation of the costs and benefits of such continuation to~~
137 ~~electrical corporations and consumers, but shall not be authorized to condition such approval~~
138 ~~or otherwise modify the deferrals authorized by subsection 2 of this section, or the discounts~~
139 ~~authorized by section 393.1640. In deciding whether to extend the program for an additional~~
140 ~~five years, the commission shall develop an objective analytical framework to determine~~
141 ~~whether there is a continuing need. The commission shall make a finding about whether there~~
142 ~~is a continuing need after hearing. Failure to obtain such commission approval shall not~~
143 ~~affect deferrals made through December 31, 2023, or the regulatory and ratemaking~~
144 ~~treatment of the regulatory assets arising from such deferrals as provided for by this section]~~
145 **of this section until December 31, 2028. Notwithstanding the immediately preceding**
146 **sentence, an electrical corporation may seek permission to continue to make the**
147 **deferrals provided for by subsection 2 of this section for an additional five years beyond**
148 **December 31, 2028, by filing an application with the commission seeking such**

149 **permission by December 31, 2026, which application shall be ruled upon by the**
150 **commission within one hundred eighty days after its filing. In deciding whether to grant**
151 **such permission to continue the commission shall have the authority, consistent with its**
152 **statutory authority outside this section, to consider such factors as in its judgment it**
153 **deems necessary and may condition the permission on factors that are relevant to the**
154 **deferrals authorized by subsection 2 of this section. The commission shall make the**
155 **determination of whether to grant such permission to continue after a hearing. An**
156 **electrical corporation making deferrals provided for by subsection 2 of this section on**
157 **and after January 1, 2024, shall be subject to the revenue requirement impact cap set**
158 **forth under section 393.1656. Failure to obtain such commission permission to continue**
159 **shall not affect deferrals made through the date for which permission has been granted,**
160 **or the regulatory and ratemaking treatment of the regulatory assets arising from such**
161 **deferrals as provided for by this section.**

162 **6. The commission may take into account any change in business risk to the**
163 **corporation resulting from implementation of the deferrals in setting the corporation's**
164 **allowed return in any rate proceeding, in addition to any other changes in business risk**
165 **experienced by the corporation.**

166 **7. This section shall expire on December 31, [2028] 2033, except that the**
167 **amortization of the regulatory asset balances arising under this section shall continue to be**
168 **reflected in the electrical corporation's rates and remaining regulatory asset balances shall be**
169 **included in the electrical corporation's rate base consistent with the ratemaking treatment and**
170 **amortization previously approved by the commission pursuant to this section.**

393.1640. 1. Subject to the limitations provided for in subsection 2 of this section,
2 and upon proper application by an eligible customer prior to public announcement of a
3 growth project, a new or existing account meeting the [following] criteria **in this subsection**
4 shall ~~[be considered]~~ **qualify** for ~~[qualification for]~~ **one of the [discount] discounts** set forth
5 **in subdivision (1) or (2) of this subsection [if]:**

6 (1) ~~[The customer adds incremental load, net of any offsetting load reductions due to~~
7 ~~the termination of other accounts of the customer or an affiliate of the customer within twelve~~
8 ~~months prior to the commencement of service to the new load, with average monthly demand~~
9 ~~that is reasonably projected to be at least three hundred kilowatts with a load factor of at least~~
10 ~~fifty five percent within two years after the date the application is submitted;~~

11 (2) ~~The customer receives local, regional, or state economic development incentives~~
12 ~~in conjunction with the incremental load; and~~

13 (3) ~~The customer meets the criteria set forth in the electrical corporation's economic~~
14 ~~development rider tariff sheet, as approved by the commission, that are not inconsistent with~~
15 ~~the provisions of this subsection.] **When the new load is reasonably projected to be at least**~~

16 **three hundred kilowatts but not more than ten megawatts and have a load factor of at**
17 **least forty-five percent, the discount shall equal thirty-five percent and shall apply for**
18 **five years, provided that if it is expected as of the date the discount is to commence that a**
19 **thirty-five percent discount would produce revenues from the applicant's total bill that**
20 **would not exceed the electrical corporation's variable cost to serve the applicant's**
21 **account or accounts that are to receive the discount, the discount shall be determined so**
22 **that the percentage discount, rounded to the nearest one percent, is expected, as of the**
23 **date the discount percentage is determined, to provide revenues equal to one hundred**
24 **twenty percent of the electrical corporation's variable cost to serve the applicant's**
25 **account or accounts that are to receive the discount;**

26 **(2) When the new load is reasonably projected to be more than ten megawatts**
27 **and have a load factor of at least fifty-five percent, the discount percentage, rounded to**
28 **the nearest one percent, shall be determined such that the applicant's total bill is**
29 **expected, as of the date the discount percentage is determined, to provide revenues equal**
30 **to one hundred twenty percent of the electrical corporation's variable cost to serve the**
31 **applicant's account or accounts that are to receive the discount. Such discount shall**
32 **apply for ten years.**

33

34 **For the purposes of this section, the variable cost to serve new load for purposes of**
35 **establishing a discount under this section shall be determined using (a) the energy and**
36 **capacity market prices that underlie the net base energy costs reflected in the revenue**
37 **requirement from the electrical corporation's most recent general rate proceeding; (b)**
38 **any operations and maintenance expenses that vary with respect to the total number of**
39 **customers or load served by the electrical corporation, excluding operations and**
40 **maintenance expenses associated with generating electricity; and (c) any other**
41 **incremental costs to serve the customer.**

42

43 **To obtain one of the discounts set forth in subdivision (1) or (2) of this subsection, the**
44 **customer's load shall be incremental, net of any offsetting load reductions due to the**
45 **termination of other accounts of the customer or an affiliate of the customer within**
46 **twelve months prior to the commencement of service to the new load, the customer shall**
47 **receive an economic development incentive from the local, regional, state, or federal**
48 **government, or from an agency or program of any such government, in conjunction**
49 **with the incremental load, and the customer shall meet the criteria set forth in the**
50 **electrical corporation's economic development rider tariff sheet, as approved by the**
51 **commission, that are not inconsistent with the provisions of this subsection.**

52

53 **Unless otherwise provided for by the electrical corporation's tariff, the applicable**
54 discount shall be a percentage applied to all base-rate components of the bill. ~~[The~~
55 ~~percentage shall be fixed for each year of service under the discount for a period of up to five~~
56 ~~years. Subject to the remaining provisions of this subsection, the average of the annual~~
57 ~~discount percentages shall equal forty percent and shall not be less than thirty percent nor~~
58 ~~more than fifty percent in any year.]~~ The discount shall be applied to such incremental load
59 from the date when the meter has been permanently set until the date that such incremental
60 load no longer meets the criteria required to qualify for the discount, as determined under the
61 provisions of subsection 2 of this section. An eligible customer shall also receive a ten
62 percent discount of all base-rate components of the bill applied to such incremental load for
63 **an additional one year [after] period beyond the [initial] period during which the**
64 **applicable discount [period ends] under subdivision (1) or (2) of this subsection applies** if
65 the electrical corporation determines that the customer is taking service from an under-
66 utilized circuit. ~~[In no event shall a customer receive a discount under this subsection after~~
67 ~~December 31, 2028.]~~ The electrical corporation may include in its tariff additional or
68 alternative terms and conditions to a customer's utilization of the discount, subject to approval
69 of such terms and conditions by the commission. The customer, on forms supplied by the
70 electrical corporation, shall apply for the **applicable** discount provided for by this subsection
71 at least ninety days prior to the date the customer requests that the incremental demand
72 receive **one of** the discounts provided for by this subsection **and shall enter into a written**
73 **agreement with the electrical corporation reflecting the discount percentages and other**
74 **pertinent details.** If the incremental demand is not separately metered, the electrical
75 corporation's determination of the incremental demand shall control. **The electrical**
76 **corporation shall verify the customer's incremental demand annually to determine**
77 **continued qualification for the applicable discount.** Notwithstanding the foregoing
78 provisions of this subsection, the cents-per-kilowatt-hour realization resulting from
79 application of any ~~[such]~~ discounted ~~[rate]~~ **rates** as calculated shall be higher than the
80 electrical corporation's variable cost to serve such ~~[accounts in aggregate]~~ **incremental**
81 **demand** and the **applicable** discounted rate also shall make a positive contribution to fixed
82 costs associated with ~~[such]~~ **service to such incremental demand.** If in a subsequent general
83 rate proceeding the commission determines that application of ~~[such]~~ **a** discounted rate is not
84 adequate to cover the electrical corporation's variable cost to serve ~~[such]~~ **the accounts in**
85 **question** and provide a positive contribution to fixed costs then the commission shall increase
86 the rate **for those accounts** prospectively to the extent necessary to do so.

87 2. In each general rate proceeding concluded after August 28, ~~[2018]~~ **2022**, the
88 ~~[reduced level of]~~ **difference in** revenues ~~[arising from]~~ **generated by applying the**
89 ~~[application of]~~ discounted rates provided for by ~~[subsection 1 of]~~ **this section and the**

90 **revenues that would have been generated without such discounts shall not be imputed**
91 **into the electrical corporation's revenue requirement. Instead, such revenue**
92 **requirement shall be set using the revenues generated by such discounted rates and**
93 **the impact of the discounts provided for by** this section shall be allocated to all the
94 electrical corporation's customer classes, including the classes with customers that qualify for
95 discounts under this section~~[. This increase shall be implemented]~~ through the application of
96 a uniform percentage adjustment to the revenue requirement responsibility of all customer
97 classes. To qualify for the discounted rates provided for in this section, ~~[if incremental load is~~
98 ~~separately metered,]~~ customers shall meet the applicable criteria within twenty-four months
99 ~~[after the date the meter is permanently set]~~ **of initially receiving discounts** based on
100 metering data for calendar months thirteen through twenty-four and annually thereafter. If
101 such data indicates that the customer did not meet ~~[the criteria]~~ **both of the three hundred**
102 **kilowatt and forty-five percent load factor requirements** for any applicable twelve-month
103 period, it shall thereafter no longer qualify for ~~[the]~~ a discounted rate. **For customers**
104 **receiving service under subdivision (2) of subsection 1 of this section, if after the fourth**
105 **year, the demand has not exceeded ten thousand kilowatts during any twelve-month**
106 **period, the customer's qualification shall revert to subdivision (1) of subsection 1 of this**
107 **section.** The provisions of this section do not supersede or limit the ability of an electrical
108 corporation to continue to utilize economic development or retention tariffs previously
109 approved by the commission that are in effect on August 28, ~~[2018]~~ **2022**. If, however, a
110 customer is receiving any economic development or retention-related discounts as of the date
111 it would otherwise qualify for a discount provided for by this section, the customer shall agree
112 to relinquish the prior discount concurrently with the date it begins to receive a discount under
113 this section; otherwise, the customer shall not be eligible to receive any discount under this
114 section. Customer demand existing at the time the customer begins to receive discounted
115 rates under this section shall not constitute incremental demand. The discounted rates
116 provided for by this section apply only to base-rate components, with the charges or credits
117 arising from any rate adjustment mechanism authorized by law to be applied to customers
118 qualifying for discounted rates under this section in the same manner as such rate adjustments
119 would apply in the absence of this section.

120 3. For purposes of this section, "electrical corporation" shall mean the same as
121 defined in section 386.020, but shall not include an electrical corporation as described in
122 subsection 2 of section 393.110.

123 4. ~~[This section shall expire on December 31, 2028, provided, that unless the~~
124 ~~electrical corporation has timely obtained the order provided for by subsection 5 of section~~
125 ~~393.1400, the electrical corporation's customers shall, after December 31, 2023, no longer~~
126 ~~receive the discounts provided under this section.] **An electrical corporation's authority to**~~

127 **offer the discounts provided for by this section shall terminate on the date that such**
128 **electrical corporation's authority to make the deferrals required by subsection 2 of**
129 **section 393.1400 expires.**

393.1655. 1. This section applies to an electrical corporation that has elected to
2 exercise any option under section 393.1400 and that has more than two hundred thousand
3 Missouri retail customers in 2018, and shall continue to apply to such electrical corporation
4 until December 31, 2023~~], if the commission has not issued an order approving continuation~~
5 ~~of the deferrals authorized by subsection 2 of section 393.1400, and continuation of the~~
6 ~~discounts authorized by section 393.1640 as authorized by subsection 5 of section 393.1400~~
7 ~~with respect to the electrical corporation, or until December 31, 2028, if the commission has~~
8 ~~issued such an order with respect to the electrical corporation].~~

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

22 3. This subsection shall apply to electrical corporations that have a general rate
23 proceeding pending before the commission as of the later of February 1, 2018, or August 28,
24 2018. If the difference between (a) the electrical corporation's average overall rate at any
25 point in time while this section applies to the electrical corporation, and (b) the electrical
26 corporation's average overall rate as of the date new base rates are set in the electrical
27 corporation's most recent general rate proceeding concluded prior to the date the electrical
28 corporation gave notice under section 393.1400, reflects a compound annual growth rate of
29 more than three percent, the electrical corporation shall not recover any amount in excess of
30 such three percent as a performance penalty.

31 4. This section shall apply to electrical corporations that do not have a general rate
32 proceeding pending before the commission as of the later of February 1, 2018, or August 28,
33 2018. If the difference between (a) the electrical corporation's average overall rate at any
34 point in time while this section applies to the electrical corporation, and (b) the average of (i)

35 the electrical corporation's average overall rate as of the date new base rates are set in the
36 electrical corporation's most recent general rate proceeding concluded prior to the date the
37 electrical corporation gave notice under section 393.1400, and (ii) the electrical corporation's
38 average overall rate set under section 393.137, reflects a compound annual growth rate of
39 more than two and eighty-five hundredths percent, the electrical corporation shall not recover
40 any amount in excess of such two and eighty-five hundredths percent as a performance
41 penalty.

42 5. If a change in any rates charged under a rate adjustment mechanism approved by
43 the commission under sections 386.266 and 393.1030 would cause an electrical corporation's
44 average overall rate to exceed the compound annual growth rate limitation set forth in
45 subsection 3 or 4 of this section, the electrical corporation shall reduce the rates charged
46 under that rate adjustment mechanism in an amount sufficient to ensure that the compound
47 annual growth rate limitation set forth in subsection 3 or 4 of this section is not exceeded due
48 to the application of the rate charged under such mechanism and the performance penalties
49 under such subsections are not triggered. Sums not recovered under any such mechanism
50 because of any reduction in rates under such a mechanism pursuant to this subsection shall be
51 deferred to and included in the regulatory asset arising under section 393.1400 or, if
52 applicable, under the regulatory and ratemaking treatment ordered by the commission under
53 section 393.1400, and recovered through an amortization in base rates in the same manner as
54 deferrals under that section or order are recovered in base rates.

55 6. If the difference between (a) the electrical corporation's class average overall rate at
56 any point in time while this section applies to the electrical corporation, and (b) the electrical
57 corporation's class average overall rate as of the date rates are set in the electrical
58 corporation's most recent general rate proceeding concluded prior to the date the electrical
59 corporation gave notice under subsection 5 of section 393.1400, reflects a compound annual
60 growth rate of more than two percent for the large power service rate class, the class average
61 overall rate shall increase by an amount so that the increase shall equal a compound annual
62 growth rate of two percent over such period for such large power service rate class, with the
63 reduced revenues arising from limiting the large power service class average overall rate
64 increase to two percent to be allocated to all the electrical corporation's other customer classes
65 through the application of a uniform percentage adjustment to the revenue requirement
66 responsibility of all the other customer classes.

67 7. For purposes of this section, the following terms shall mean:

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

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

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

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

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

87 (6) "Class average rider rate", a rate calculated by dividing the total of the sums
88 allocated for recovery from the large power service rate class under the electrical
89 corporation's rate adjustment mechanisms in place other than a rate adjustment mechanism
90 under section 393.1075 by the total sales volumes stated in kilowatt-hours for that class used
91 to set rates under such rate adjustment mechanisms, exclusive of gross receipts tax, sales tax,
92 and other similar pass-through taxes;

93 (7) "Force majeure event", an event or circumstance that occurs as a result of a
94 weather event, an act of God, war, terrorism, or other event which threatens the financial
95 integrity of the electrical corporation that causes a reduction in revenues, an increase in the
96 cost of providing electrical service, or some combination thereof, and the event has an
97 associated fiscal impact on the electrical corporation's operations equal to three percent or
98 greater of the total revenue requirement established in the electrical corporation's last general
99 rate proceeding after taking into account the financial impact specified in section 393.137.
100 Any force majeure event shall be subject to commission review and approval, and shall not
101 preclude the commission from reviewing the prudence of any revenue reductions or costs
102 incurred during any proceeding to set rates;

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

**393.1656. 1. This section applies beginning January 1, 2024, to an electrical
2 corporation that has elected to exercise any option under section 393.1400 and shall**

3 continue to apply to such electrical corporation until such electrical corporation's
4 permission to make the deferrals authorized by subsection 2 of section 393.1400 expires.

5 **2. That part of the electrical corporation's retail revenue requirement used to set**
6 **the electrical corporation's base rates in each of the electrical corporation's general rate**
7 **proceedings that are concluded on or after August 31, 2023, that consists of revenue**
8 **requirement arising from inclusion in rate base of the section 393.1400 regulatory asset**
9 **balance shall not exceed the revenue requirement impact cap. If inclusion in rate base**
10 **of the full balance of the subject section 393.1400 regulatory asset would cause the**
11 **electrical corporation to exceed the revenue requirement impact cap, that part of the**
12 **balance necessary to prevent inclusion of the full balance from causing an exceedance of**
13 **the revenue requirement impact cap shall not be included in rate base and the section**
14 **393.1400 regulatory asset balance shall be reduced accordingly as a penalty.**

15 **3. For purposes of this section, the following terms shall mean:**

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

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

19 **(3) "Rate-base cutoff date", the date rate-base additions are accounted for in a**
20 **general rate proceeding. In the absence of a commission order that specifies the rate-**
21 **base cutoff date, such date as reflected in any jointly proposed procedural schedule**
22 **submitted by the parties in the applicable general rate proceeding, or as otherwise**
23 **agreed to by such parties, shall be used;**

24 **(4) "Revenue requirement impact cap", the product of (i) one-twelfth of two and**
25 **one-half percent, multiplied by (ii) the number of months that have elapsed from the**
26 **effective date of new base rates in the electrical corporation's most recently completed**
27 **general rate proceeding to the effective date of new base rates in the general rate**
28 **proceeding in which the cap is being applied, with that product to be multiplied by the**
29 **retail revenue requirement used to set base rates in the electrical corporation's most**
30 **recently completed general rate proceeding concluded prior to the general rate**
31 **proceeding in which the cap is being applied;**

32 **(5) "Subject section 393.1400 regulatory asset", deferrals under section 393.1400**
33 **from the rate-base cutoff date in the electrical corporation's prior general rate**
34 **proceeding to the rate-base cutoff date in the current general rate proceeding in which**
35 **the cap reflected in subsection 2 of this section is being applied.**

442.404. 1. As used in this section, the following terms shall mean:

2 **(1) "Homeowners' association", a nonprofit corporation or unincorporated association**
3 **of homeowners created under a declaration to own and operate portions of a planned**
4 **community or other residential subdivision that has the power under the declaration to assess**

5 association members to pay the costs and expenses incurred in the performance of the
6 association's obligations under the declaration or tenants-in-common with respect to the
7 ownership of common ground or amenities of a planned community or other residential
8 subdivision. This term shall not include a condominium unit owners' association as defined
9 and provided for in subdivision (3) of section 448.1-103 or a residential cooperative;

10 (2) "Political signs", any fixed, ground-mounted display in support of or in opposition
11 to a person seeking elected office or a ballot measure excluding any materials that may be
12 attached;

13 (3) **"Solar panel or solar collector", a device used to collect and convert solar
14 energy into electricity or thermal energy, including but not limited to photovoltaic cells
15 or panels, or solar thermal systems.**

16 2. (1) No deed restrictions, covenants, or similar binding agreements running with
17 the land shall prohibit or have the effect of prohibiting the display of political signs.

18 ~~[3.]~~ (2) A homeowners' association has the authority to adopt reasonable rules,
19 subject to any applicable statutes or ordinances, regarding the time, size, place, number, and
20 manner of display of political signs.

21 ~~[4.]~~ (3) A homeowners' association may remove a political sign without liability if
22 such sign is placed within the common ground, threatens the public health or safety, violates
23 an applicable statute or ordinance, is accompanied by sound or music, or if any other
24 materials are attached to the political sign. Subject to the foregoing, a homeowners'
25 association shall not remove a political sign from the property of a homeowner or impose any
26 fine or penalty upon the homeowner unless it has given such homeowner three days after
27 providing written notice to the homeowner, which notice shall specifically identify the rule
28 and the nature of the violation.

29 3. (1) **No deed restrictions, covenants, or similar binding agreements running
30 with the land shall limit or prohibit, or have the effect of limiting or prohibiting, the
31 installation of solar panels or solar collectors on the rooftop of any property or
32 structure.**

33 (2) **A homeowners' association may adopt reasonable rules, subject to any
34 applicable statutes or ordinances, regarding the placement of solar panels or solar
35 collectors to the extent that those rules do not prevent the installation of the device,
36 impair the functioning of the device, restrict the use of the device, or adversely affect the
37 cost or efficiency of the device.**

38 (3) **The provisions of this subsection shall apply only with regard to rooftops that
39 are owned, controlled, and maintained by the owner of the individual property or
40 structure.**

610.021. Except to the extent disclosure is otherwise required by law, a public governmental body is authorized to close meetings, records and votes, to the extent they relate to the following:

(1) Legal actions, causes of action or litigation involving a public governmental body and any confidential or privileged communications between a public governmental body or its representatives and its attorneys. However, any minutes, vote or settlement agreement relating to legal actions, causes of action or litigation involving a public governmental body or any agent or entity representing its interests or acting on its behalf or with its authority, including any insurance company acting on behalf of a public government body as its insured, shall be made public upon final disposition of the matter voted upon or upon the signing by the parties of the settlement agreement, unless, prior to final disposition, the settlement agreement is ordered closed by a court after a written finding that the adverse impact to a plaintiff or plaintiffs to the action clearly outweighs the public policy considerations of section 610.011, however, the amount of any moneys paid by, or on behalf of, the public governmental body shall be disclosed; provided, however, in matters involving the exercise of the power of eminent domain, the vote shall be announced or become public immediately following the action on the motion to authorize institution of such a legal action. Legal work product shall be considered a closed record;

(2) Leasing, purchase or sale of real estate by a public governmental body where public knowledge of the transaction might adversely affect the legal consideration therefor. However, any minutes, vote or public record approving a contract relating to the leasing, purchase or sale of real estate by a public governmental body shall be made public upon execution of the lease, purchase or sale of the real estate;

(3) Hiring, firing, disciplining or promoting of particular employees by a public governmental body when personal information about the employee is discussed or recorded. However, any vote on a final decision, when taken by a public governmental body, to hire, fire, promote or discipline an employee of a public governmental body shall be made available with a record of how each member voted to the public within seventy-two hours of the close of the meeting where such action occurs; provided, however, that any employee so affected shall be entitled to prompt notice of such decision during the seventy-two-hour period before such decision is made available to the public. As used in this subdivision, the term "personal information" means information relating to the performance or merit of individual employees;

(4) The state militia or national guard or any part thereof;

(5) Nonjudicial mental or physical health proceedings involving identifiable persons, including medical, psychiatric, psychological, or alcoholism or drug dependency diagnosis or treatment;

38 (6) Scholastic probation, expulsion, or graduation of identifiable individuals,
39 including records of individual test or examination scores; however, personally identifiable
40 student records maintained by public educational institutions shall be open for inspection by
41 the parents, guardian or other custodian of students under the age of eighteen years and by the
42 parents, guardian or other custodian and the student if the student is over the age of eighteen
43 years;

44 (7) Testing and examination materials, before the test or examination is given or, if it
45 is to be given again, before so given again;

46 (8) Welfare cases of identifiable individuals;

47 (9) Preparation, including any discussions or work product, on behalf of a public
48 governmental body or its representatives for negotiations with employee groups;

49 (10) Software codes for electronic data processing and documentation thereof;

50 (11) Specifications for competitive bidding, until either the specifications are
51 officially approved by the public governmental body or the specifications are published for
52 bid;

53 (12) Sealed bids and related documents, until the bids are opened; and sealed
54 proposals and related documents or any documents related to a negotiated contract until a
55 contract is executed, or all proposals are rejected;

56 (13) Individually identifiable personnel records, performance ratings or records
57 pertaining to employees or applicants for employment, except that this exemption shall not
58 apply to the names, positions, salaries and lengths of service of officers and employees of
59 public agencies once they are employed as such, and the names of private sources donating or
60 contributing money to the salary of a chancellor or president at all public colleges and
61 universities in the state of Missouri and the amount of money contributed by the source;

62 (14) Records which are protected from disclosure by law;

63 (15) Meetings and public records relating to scientific and technological innovations
64 in which the owner has a proprietary interest;

65 (16) Records relating to municipal hotlines established for the reporting of abuse and
66 wrongdoing;

67 (17) Confidential or privileged communications between a public governmental body
68 and its auditor, including all auditor work product; however, all final audit reports issued by
69 the auditor are to be considered open records pursuant to this chapter;

70 (18) Operational guidelines, policies and specific response plans developed, adopted,
71 or maintained by any public agency responsible for law enforcement, public safety, first
72 response, or public health for use in responding to or preventing any critical incident which is
73 or appears to be terrorist in nature and which has the potential to endanger individual or
74 public safety or health. Financial records related to the procurement of or expenditures

75 relating to operational guidelines, policies or plans purchased with public funds shall be open.
76 When seeking to close information pursuant to this exception, the public governmental body
77 shall affirmatively state in writing that disclosure would impair the public governmental
78 body's ability to protect the security or safety of persons or real property, and shall in the same
79 writing state that the public interest in nondisclosure outweighs the public interest in
80 disclosure of the records;

81 (19) Existing or proposed security systems and structural plans of real property
82 owned or leased by a public governmental body, and information that is voluntarily submitted
83 by a nonpublic entity owning or operating an infrastructure to any public governmental body
84 for use by that body to devise plans for protection of that infrastructure, the public disclosure
85 of which would threaten public safety:

86 (a) Records related to the procurement of or expenditures relating to security systems
87 purchased with public funds shall be open;

88 (b) When seeking to close information pursuant to this exception, the public
89 governmental body shall affirmatively state in writing that disclosure would impair the public
90 governmental body's ability to protect the security or safety of persons or real property, and
91 shall in the same writing state that the public interest in nondisclosure outweighs the public
92 interest in disclosure of the records;

93 (c) Records that are voluntarily submitted by a nonpublic entity shall be reviewed by
94 the receiving agency within ninety days of submission to determine if retention of the
95 document is necessary in furtherance of a state security interest. If retention is not necessary,
96 the documents shall be returned to the nonpublic governmental body or destroyed;

97 (20) The portion of a record that identifies security systems or access codes or
98 authorization codes for security systems of real property;

99 (21) Records that identify the configuration of components or the operation of a
100 computer, computer system, computer network, or telecommunications network, and would
101 allow unauthorized access to or unlawful disruption of a computer, computer system,
102 computer network, or telecommunications network of a public governmental body. This
103 exception shall not be used to limit or deny access to otherwise public records in a file,
104 document, data file or database containing public records. Records related to the procurement
105 of or expenditures relating to such computer, computer system, computer network, or
106 telecommunications network, including the amount of moneys paid by, or on behalf of, a
107 public governmental body for such computer, computer system, computer network, or
108 telecommunications network shall be open;

109 (22) Credit card numbers, personal identification numbers, digital certificates,
110 physical and virtual keys, access codes or authorization codes that are used to protect the
111 security of electronic transactions between a public governmental body and a person or entity

112 doing business with a public governmental body. Nothing in this section shall be deemed to
113 close the record of a person or entity using a credit card held in the name of a public
114 governmental body or any record of a transaction made by a person using a credit card or
115 other method of payment for which reimbursement is made by a public governmental body;

116 (23) Records submitted by an individual, corporation, or other business entity to a
117 public institution of higher education in connection with a proposal to license intellectual
118 property or perform sponsored research and which contains sales projections or other
119 business plan information the disclosure of which may endanger the competitiveness of a
120 business; ~~and~~

121 (24) Records relating to foster home or kinship placements of children in foster care
122 under section 210.498; **and**

123 **(25) Individually identifiable customer usage and billing records for customers**
124 **of a municipally owned utility, unless the records are requested by the customer or**
125 **authorized for release by the customer, except that a municipally owned utility shall**
126 **make available to the public the customer's name, billing address, location of service,**
127 **and dates of service provided for any commercial service account.**

Section B. The repeal and reenactment of section 442.404 of section A of this act
2 shall be effective on January 1, 2023.

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