

## SENATE COMMITTEE SUBSTITUTE

FOR

SENATE BILL NO. 1396

AN ACT

To repeal section 393.1640, RSMo, and to enact in lieu thereof one new section relating to discounts by electrical corporations.

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

Section A. Section 393.1640, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 393.1640, to read as follows:

393.1640. 1. Subject to the limitations provided for in subsection 2 of this section, and upon proper application by an eligible customer prior to public announcement of a growth project, a new or existing account meeting the criteria in this subsection shall qualify for one of the discounts set forth in subdivision (1) or (2) of this subsection:

(1) When the new load is reasonably projected to be at least three hundred kilowatts but not more than ten megawatts and have a load factor of at least forty-five percent, the discount shall equal thirty-five percent and shall apply for five years, provided that if it is expected as of the date the discount is to commence that a thirty-five percent discount would produce revenues from the applicant's total bill that would not exceed the electrical corporation's variable cost to serve the applicant's account or accounts that are to receive the discount, the discount shall be determined so that the percentage discount, rounded to the nearest one percent, is expected, as of the date the discount percentage is determined, to provide revenues equal to one hundred twenty percent of the electrical

corporation's variable cost to serve the applicant's account or accounts that are to receive the discount;

(2) When the new load is reasonably projected to be more than ten megawatts but less than seventy-five megawatts and have a load factor of at least fifty-five percent, the discount percentage ], rounded to the nearest one percent, shall be determined such that the applicant's total bill is expected, as of the date the discount percentage is determined, to provide revenues equal to one hundred twenty percent of the electrical corporation's variable cost to serve the applicant's account or accounts that are to receive the discount. Such discount shall apply for ten years] shall equal thirty-five percent and shall apply for five years, provided that if it is expected as of the date the discount is to commence that a thirty-five percent discount would produce revenues from the applicant's total bill that would not exceed the electrical corporation's variable cost to serve the applicant's account or accounts that are to receive the discount, the discount shall be determined so that the percentage discount, rounded to the nearest one percent, is expected, as of the date the discount percentage is determined, to provide revenues sufficient to recover the electrical corporation's variable cost to serve the applicant's account or accounts that are to receive the discount.

[For the purposes of this section, the variable cost to serve new load for purposes of establishing a discount under this section shall be determined using (a) the energy and capacity market prices that underlie the net base energy costs reflected in the revenue requirement from the electrical corporation's most recent general rate proceeding; (b) any operations and maintenance expenses that

vary with respect to the total number of customers or load served by the electrical corporation, excluding operations and maintenance expenses associated with generating electricity; and (c) any other incremental costs to serve the customer.]

To obtain one of the discounts set forth in subdivision (1) or (2) of this subsection, the customer's load shall be incremental, net of any offsetting load reductions due to the termination of other accounts of the customer or an affiliate of the customer within twelve months prior to the commencement of service to the new load, the customer shall receive an economic development incentive from the local, regional, state, or federal government, or from an agency or program of any such government, in conjunction with the incremental load, and the customer shall meet the criteria set forth in the electrical corporation's economic development rider tariff sheet, as approved by the commission, that are not inconsistent with the provisions of this subsection. An applicant shall not be eligible for a discount authorized by this subsection for any new or expanded facility that is determined by an electrical corporation to be a nonqualifying facility as defined in this section.

Unless otherwise provided for by the electrical corporation's tariff, the applicable discount shall be a percentage applied to all base-rate components of the bill. The discount shall be applied to such incremental load from the date when the meter has been permanently set until the date that such incremental load no longer meets the criteria required to qualify for the discount, as determined under the provisions of subsection 2 of this section. An eligible customer shall also receive a ten percent discount of all

base-rate components of the bill applied to such incremental load for an additional one-year period beyond the period during which the applicable discount under subdivision (1) or (2) of this subsection applies if the electrical corporation determines that the customer is taking service from an under-utilized circuit. The electrical corporation may include in its tariff additional or alternative terms and conditions to a customer's utilization of the discount, subject to approval of such terms and conditions by the commission. The customer, on forms supplied by the electrical corporation, shall apply for the applicable discount provided for by this subsection at least ninety days prior to the date the customer requests that the incremental demand receive one of the discounts provided for by this subsection and shall enter into a written agreement with the electrical corporation reflecting the discount percentages and other pertinent details. If the incremental demand is not separately metered, the electrical corporation's determination of the incremental demand shall control. The electrical corporation shall verify the customer's incremental demand annually to determine continued qualification for the applicable discount.

[Notwithstanding the foregoing provisions of this subsection, the cents-per-kilowatt-hour realization resulting from application of any discounted rates as calculated shall be higher than the electrical corporation's variable cost to serve such incremental demand and the applicable discounted rate also shall make a positive contribution to fixed costs associated with service to such incremental demand. If in a subsequent general rate proceeding the commission determines that application of a discounted rate is not adequate to cover the electrical corporation's variable cost to serve the accounts in

question and provide a positive contribution to fixed costs then the commission shall increase the rate for those accounts prospectively to the extent necessary to do so.]

2. In each general rate proceeding concluded after August 28, 2022, the difference in revenues generated by applying the discounted rates provided for by this section and the revenues that would have been generated without such discounts shall not be imputed into the electrical corporation's revenue requirement. Instead, such revenue requirement shall be set using the revenues generated by such discounted rates and the impact of the discounts provided for by this section shall be allocated to all the electrical corporation's customer classes, including the classes with customers that qualify for discounts under this section through the application of a uniform percentage adjustment to the revenue requirement responsibility of all customer classes. To qualify for the discounted rates provided for in this section, customers shall meet the applicable criteria within twenty-four months of initially receiving discounts based on metering data for calendar months thirteen through twenty-four and annually thereafter. If such data indicates that the customer did not meet both of the three hundred kilowatt and forty-five percent load factor requirements for any applicable twelve-month period, it shall thereafter no longer qualify for a discounted rate. For customers receiving service under subdivision (2) of subsection 1 of this section, if after the fourth year, the demand has not exceeded ten thousand kilowatts during any twelve-month period, the customer's qualification shall revert to subdivision (1) of subsection 1 of this section. The provisions of this section do not supersede or limit the ability of an electrical corporation to continue to utilize economic development or retention

tariffs previously approved by the commission that are in effect on August 28, 2022. If, however, a customer is receiving any economic development or retention-related discounts as of the date it would otherwise qualify for a discount provided for by this section, the customer shall agree to relinquish the prior discount concurrently with the date it begins to receive a discount under this section; otherwise, the customer shall not be eligible to receive any discount under this section. Customer demand existing at the time the customer begins to receive discounted rates under this section shall not constitute incremental demand. The discounted rates provided for by this section apply only to base-rate components, with the charges or credits arising from any rate adjustment mechanism authorized by law to be applied to customers qualifying for discounted rates under this section in the same manner as such rate adjustments would apply in the absence of this section.

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

(1) "Electrical corporation" [shall mean], the same as defined in section 386.020, but shall not include an electrical corporation as described in subsection 2 of section 393.110;

(2) "Nonqualifying facility", one or more buildings that are constructed, reconstructed, enlarged, remodeled, or leased to house a group of networked computer servers in this state to centralize the storage, management, and dissemination of data and information pertaining to a particular business, taxonomy, or body of knowledge and such buildings are connected to each other by fiber and associated equipment required for operating a fiber transmission network between the buildings and internet

points for the purpose of providing redundancy and resiliency for the services provided in each building.

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