

SENATE BILL NO. 1411

103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR SCHROER.

5873S.011

KRISTINA MARTIN, Secretary

AN ACT

To amend chapter 393, RSMo, by adding thereto thirteen new sections relating to a competitive retail electricity market.

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

Section A. Chapter 393, RSMo, is amended by adding thereto
2 thirteen new sections, to be known as sections 393.2000,
3 393.2003, 393.2006, 393.2009, 393.2012, 393.2015, 393.2018,
4 393.2021, 393.2024, 393.2027, 393.2030, 393.2033, and 393.2036,
5 to read as follows:

393.2000. 1. Sections 393.2000 to 393.2036 shall be
2 known and may be cited as the "Electrical Choice and
3 Competition Law".

4 2. Consistent with the timelines established in
5 section 393.2006, the provisions of sections 393.2000 to
6 393.2036 shall govern the sale of electric energy in the
7 state of Missouri and any provision of law that conflicts
8 with the provisions of sections 393.2000 to 393.2036 shall
9 be null and void.

10 3. For purposes of sections 393.2000 to 393.2036, the
11 commission shall promulgate rules to implement the
12 provisions in sections 393.2000 to 393.2036. Any rule or
13 portion of a rule, as that term is defined in section
14 536.010, that is created under the authority delegated in
15 this section shall become effective only if it complies with

and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2026, shall be invalid and void.

393.2003. As used in sections 393.2000 to 393.2036, the following terms shall mean:

(1) "Aggregation program", a grouping of retail customers into a buying group to purchase energy generation services in bulk from a retail electric supplier;

(2) "Anticompetitive conduct" or "discriminatory conduct", actions by an electric utility that inhibit the ability of retail electric suppliers to provide electric supply to retail customers or that create an impression that any electric supply by an electric utility is superior to offerings in the competitive market or provides an advantage to any related retail electric supplier over nonaffiliated retail electric suppliers;

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

(4) "Competitive procurement process", an auction or other competitive process in which wholesale electric suppliers submit bids to supply electric supply to an electric utility for purposes of serving default supply service;

(5) "Competitive transition charge", non-bypassable charge mechanism for the recovery of transition or stranded costs by an electric utility over a limited time period;

24 (6) "Default supply service", electric supply service
25 provided by an electric utility, or a non-utility entity
26 selected by the commission, upon transition to a competitive
27 market for customers who do not choose a retail electric
28 supplier;

29 (7) "Delivery service rates", the charges for the
30 delivery or transmission of electric power or energy;

31 (8) "Dual bill", an invoicing framework in which a
32 retail customer receives a bill from a retail electric
33 supplier that includes charges for electric supply services
34 and another bill from the electric utility for transmission
35 and distribution services;

36 (9) "Electric supply" or "electric supply services",
37 the sale or purchase of electricity by a retail customer
38 from a retail supplier or from a default supply service
39 provider;

40 (10) "Electric utility" or "investor-owned utilities",
41 an electrical corporation as defined in section 386.020.
42 "Electric utility" or "investor-owned utilities" shall not
43 include municipally owned electric utilities operating under
44 chapter 91 or rural electric cooperatives operating under
45 chapter 394, but such municipally owned or rural electric
46 cooperatives may choose to opt in to a competitive retail
47 market pursuant the provisions of sections 393.2000 to
48 393.2036;

49 (11) "Energy assistance customers", residential
50 customers who are eligible for energy billing assistance due
51 to their income level and who are enrolled in an energy
52 assistance program;

53 (12) "Hourly prices", charges for default supply
54 service that vary hour to hour and are determined from

55 wholesale market prices using a methodology approved by the
56 commission;

57 (13) "Independent system operator", an independent and
58 federally regulated entity that coordinates regional
59 transmission to ensure non-discriminatory access to the
60 electric grid and a reliable electricity system;

61 (14) "Large commercial and industrial customer", a
62 customer receiving transmission and distribution service
63 from an electric utility under a non-residential tariff and
64 whose maximum registered peak load is one thousand kilowatt
65 or greater within the last twelve months;

66 (15) "Market power", a company's ability to manipulate
67 the market clearing price of an item by manipulating the
68 level of supply, demand, or both;

69 (16) "Medium commercial or industrial customer", a
70 customer receiving transmission and distribution service
71 from the electric utility under a non-residential tariff and
72 whose maximum registered peak load is one hundred fifty or
73 more kilowatt, but less than one thousand kilowatt, within
74 the last twelve months;

75 (17) "Non-bypassable", a charge that all customers
76 must pay irrespective of their energy supplier;

77 (18) "Rate unbundling", the process of separating the
78 cost components of delivery services from electric supply
79 services in the electric utility tariffs;

80 (19) "Residential customer", a customer receiving
81 transmission and distribution service from the electric
82 utility under a residential tariff;

83 (20) "Retail customer", a customer purchasing electric
84 supply from an electric utility supplier or from a retail
85 electric supplier;

86 (21) "Retail electric supplier", a person or entity
87 licensed by the commission to furnish electric supply to
88 retail customers;

89 (22) "Small commercial or industrial customer", a
90 customer receiving transmission and distribution service
91 from an electric utility under a non-residential tariff and
92 whose maximum registered peak load is less than one hundred
93 fifty kilowatt within the last twelve months;

94 (23) "Supplier consolidated bill", an invoicing
95 framework in which a single bill is provided to a retail
96 customer by a retail electric supplier that includes charges
97 for electric supply services and transmission and
98 distribution services;

99 (24) "Transition costs" or "stranded costs", costs by
100 electric utilities that are not recoverable in a competitive
101 generation market. Such costs include electric generation
102 related assets and other deferred charges, the unfunded
103 portion of nuclear decommissioning costs, environmental
104 expenses previously incurred, cost obligations under long-
105 term contracts, and consumer education and other costs
106 associated with implementing electric choice, in addition to
107 any costs approved by the commission. These costs are to be
108 collected over a limited time period by the competitive
109 transition charge;

110 (25) "Transmission and distribution service", delivery
111 of electricity provided by an electric utility over its
112 transmission and distribution systems;

113 (26) "Utility consolidated bill", an invoicing
114 framework in which a single bill is provided to a retail
115 customer by an electric utility that includes charges for
116 electric supply services and transmission and distribution
117 services.

393.2006. 1. An electric utility shall provide equal
and open access to electric supply over the electric
utility's transmission and distribution systems to allow
retail electric suppliers to sell electricity directly to
retail customers in the state.

2. Twenty-four months after August 28, 2026, the
commission shall permit commercial and industrial customers
of electric utilities to choose a retail electric supplier.

3. On a time frame selected by the commission, but no
later than eighteen months following the date at which
commercial and industrial customers are permitted to choose
a retail electric supplier, the commission shall permit
residential customers to choose a retail electric supplier.
Nothing in this section shall adversely affect the ability
of energy assistance residential customers to retain access
to all financial assistance benefits currently available to
qualifying low-income customers, regardless of the retail
customer's choice of supplier of electric supply services.

393.2009. 1. Each electric utility shall submit to
the commission a restructuring plan to assist retail
customers to choose a retail electric supplier for electric
supply services under section 393.2006. The plan shall be
submitted pursuant to a schedule established by the
commission on or before the date that is twelve months prior
to the date when commercial and industrial customers are
able to choose a retail electric supplier.

2. A restructuring plan under this section shall
include, but is not limited to, the following:

(1) Identification of transition costs and an
explanation of mitigation efforts taken by electric
utilities to minimize such costs;

14 (2) Proposed non-bypassable transition charges for
15 each customer class for the recovery of transition costs;

16 (3) Proposed unbundled rates for each retail customer
17 class for generation, transmission, and distribution
18 services;

19 (4) A description of the unbundling process, including
20 an explanation of the steps taken by an electric utility to
21 ensure that the proposed unbundled rates do not result in
22 the creation of cross-subsidies that adversely affect
23 residential customers;

24 (5) Procedures for ensuring the ability of customers
25 to choose a retail electric supplier for electric supply
26 services;

27 (6) Procedures describing the ability of retail
28 suppliers to obtain historic usage data, and other relevant
29 information for pricing, invoicing, and communication
30 functions with retail customers;

31 (7) Procedures describing the process for electric
32 utilities to provide to retail electric suppliers access to
33 retail customer data necessary for pricing, contracting,
34 dual billing, utility consolidated billing, and supplier
35 consolidated billing functions;

36 (8) Procedures governing the default supply service
37 supply rates; and

38 (9) Tariffs and rate schedules implementing each of
39 the procedures in subdivisions (1) to (8) of this subsection.

40 3. The commission shall review each restructuring plan
41 and, after conducting a hearing, issue an order accepting,
42 modifying, or rejecting the plan no later than six months
43 from the filing date of the plan. If the commission rejects
44 the plan, the commission shall state the specific reasons
45 and order the electric utility to file an alternative plan

46 within thirty days. The commission shall review the
47 alternative plan and accept comments from interested parties
48 in a timely manner.

393.2012. 1. Electric utilities shall unbundle the
2 rates charged for generation, transmission, and distribution
3 services for all customer classes consistent with the
4 provisions of sections 393.2006 and 393.2009.

5 2. Following the implementation of the unbundled rates
6 under this section, the commission shall regulate the
7 manufacture, sale, and distribution of electricity pursuant
8 to the provisions of sections 393.2000 to 393.2036.

393.2015. 1. Each electric utility shall be permitted
2 to recover transition costs pursuant to the time frame under
3 section 393.2006 and the divestiture process under section
4 393.2018.

5 2. The commission shall approve the recovery and time
6 periods over which the stranded costs are to be collected by
7 the competitive transition charge. The commission shall
8 take into consideration the electric utility's expected rate
9 of return on the generation assets, the proceeds obtained in
10 the divestiture process under section 393.2018, and the
11 effect on a retail customer's electricity costs. The
12 commission may also consider other criteria deemed
13 appropriate by the commission in assessing the stranded cost
14 recovery and the collection period of such costs.

393.2018. 1. At any time prior to and consistent with
2 the timeline under section 393.2006, electric utilities
3 shall divest their generation assets. Such generation
4 assets may be divested in one or both of the following
5 options with the approval of the commission:

6 (1) Sell generation assets to an unaffiliated entity
7 or entities at a fair market value; or

8 (2) Transfer generation assets to a non-utility
9 affiliate at a fair market value.

10 2. During and after the divestiture process under this
11 section, the commission shall determine whether it is
12 necessary to establish, in addition to existing independent
13 system operator market power protections that may be
14 applicable, an independent market monitor to ensure that no
15 entity owns generation assets in an amount that gives that
16 entity market power.

393.2021. 1. Consistent with the time frame for
2 choosing a retail electric supplier pursuant to sections
3 393.2006 and 393.2009, electric utilities shall provide
4 default supply service to retail customers that do not
5 choose a retail electric supplier.

6 2. Default supply service for large commercial and
7 industrial customers shall consist of hourly prices for
8 electric energy, along with any additional costs incurred in
9 the provision of such services by the independent system
10 operator.

11 3. Default supply service for medium commercial and
12 industrial customers shall commence with a rate set every
13 six months through a competitive procurement process along
14 with any additional costs incurred in the provision of such
15 services by the independent system operator. If at any time
16 less than seventy percent of the annual megawatt-hour
17 consumption of such rate class is supplied by the electric
18 supply established by the competitive procurement process,
19 the commission shall initiate a proceeding within three
20 months of when the less than seventy percent threshold was
21 reached to phase out the electric supply established by the
22 competitive procurement process and replace it with the
23 hourly priced default supply service.

24 4. Default supply service for small commercial and
25 industrial customers shall commence with a rate set annually
26 through a competitive procurement process along with any
27 additional costs incurred in the provision of such services
28 by the independent system operator. If at any time less
29 than sixty percent of the annual megawatt-hour consumption
30 of such rate class is supplied by the electric supply
31 established by the competitive procurement process, the
32 commission shall initiate a proceeding within three months
33 of when the less than sixty percent threshold was reached to
34 phase out the electric supply established by the competitive
35 procurement process and replace it with the hourly priced
36 default supply service.

37 5. Default supply service for residential customers
38 shall commence with a rate set annually through a
39 competitive procurement process along with any additional
40 costs incurred in the provision of such services by the
41 independent system operator. If at any time less than fifty
42 percent of the annual megawatt-hour consumption of such rate
43 class is supplied by the electric supply established by the
44 competitive procurement process, the commission shall
45 initiate a proceeding within three months of when the less
46 than fifty percent threshold was reached to phase out the
47 electric supply established by the competitive procurement
48 process and replace it with the hourly priced default supply
49 service or another default supply service approved by the
50 commission.

51 6. The competitive procurement processes under this
52 section shall consist of a wholesale power auction or
53 similar competitive process to establish a clearing price or
54 rate including electric supply, capacity, transmission,
55 ancillary services, and other services identified by the

56 commission, for the retail customers in each rate class that
57 do not choose a retail electric supplier. Such auctions
58 shall occur pursuant to a schedule approved by the
59 commission consistent with the default supply services under
60 this section and as frequently as necessary.

61 7. For each default supply service rate class category
62 under this section, the retail rate shall also include all
63 administrative and operational costs, including direct and
64 indirect costs, that are incurred to provide default supply
65 service to retail customers.

66 (1) Direct costs to provide default supply service
67 shall be fully allocated to the rate for each rate class.
68 Indirect or shared costs incurred to provide default supply
69 service shall also be allocated to the rate for each rate
70 class. Allocation of indirect or shared costs shall be
71 determined in accordance with the provisions of this chapter
72 and through a fully allocated cost study performed by the
73 electric utility and presented to the commission, subject to
74 stakeholder input. This cost study shall include each and
75 every cost category that can reasonably be deemed necessary
76 to provide or support the provision of default supply
77 service.

78 (2) Indirect costs to be recovered in the default
79 supply service rate under this section shall be re-evaluated
80 at a time period deemed appropriate by the commission but no
81 later than every six months. A commission-approved tariff
82 shall be established to administer the cost allocation
83 mechanism under this section.

84 8. For each rate class, once an hourly priced default
85 supply service has been in operation for six months, the
86 commission shall initiate a proceeding to establish a
87 process to phase out the default supply service with an

88 alternative electric supply service provided by one or more
89 retail electric suppliers for the purpose of supplying
90 retail customers in the rate class who do not choose a
91 retail electric supplier.

393.2024. 1. The commission may establish a separate
2 process for the supply of electric supply service for energy
3 assistance customers in each electric utility service
4 geographical area. This process shall include the grouping
5 of the subset of energy assistance residential customers
6 into an aggregation program.

7 2. The aggregation of customers to be supplied
8 electric supply services by a retail supplier shall be
9 chosen by a competitive bidding process for a term length
10 established by the commission. The competitive bidding
11 process may be repeated in advance of the expiration of the
12 initial term length for the next term.

13 3. The retail supplier selected in the competitive
14 bidding process under this section shall offer a price at or
15 below the default supply service rate set annually through a
16 competitive procurement process for residential customers
17 for the same or similar term length. If the electric supply
18 service chosen by a competitive procurement process for
19 default supply service is replaced with an hourly default
20 supply service, the commission may institute an alternative
21 pricing threshold for purposes of the energy assistance
22 customer aggregation program under this section.

23 4. Energy assistance customers shall have the ability
24 to opt-out of the electric supply service aggregation
25 program. If the energy assistance customers choose to opt-
26 out, such customers shall no longer be eligible for any
27 energy assistance relief.

28 5. The commission shall hold a public hearing
29 regarding the energy assistance residential customers
30 aggregation program under this section prior to the
31 implementation of the aggregation program.

 393.2027. 1. All electric utilities shall provide
2 open and nondiscriminatory access to their data and systems
3 as needed to retail electric suppliers. All electric
4 utilities shall continue to provide metering services but
5 customer-specific data and other relevant customer
6 information shall be made available to retail electric
7 suppliers so long as the retail electric suppliers receive a
8 retail customer's consent for the release of the customer
9 data.

10 2. The commission shall develop a process to obtain
11 customer consent for the release of customer data under this
12 section. Commonly used digital signatures or similar
13 methods consistent with the current technological
14 capabilities shall be sufficient to receive customer consent.

15 3. Customer data under this section shall include:

16 (1) At least two years of customer usage and metering
17 data and other information, including, but not limited to,
18 customer details, transmission details, or any issues with
19 transmission, distribution, or billing;

20 (2) Monthly summaries and hourly interval data, if
21 available, of customer usage at the kilowatt-hour and
22 kilowatt measurements.

23 4. During the time period when a retail customer
24 receives electric supply from a retail electric supplier,
25 the electric utility shall make available to the retail
26 electric supplier customer usage data under subsection 3 of
27 this section as necessary to facilitate invoicing in a
28 timely manner.

29 5. Retail customers shall be able to select their
30 preferred billing method including, but not limited to, a
31 utility consolidated bill of electric supply services and
32 delivery service rates, a retail electric supplier
33 consolidated bill of electric supply services and delivery
34 service rates, as well as the dual billing option for such
35 charges.

36 6. The dual billing option shall be available at the
37 time commercial and industrial customers choose their retail
38 supplier for electric supply services pursuant to section
39 393.2006.

40 7. The commission shall promulgate rules to develop
41 the necessary procedures and requirements to implement the
42 utility consolidated billing and supplier consolidated
43 billing methods under this section to be available at the
44 time residential customers choose their retail electric
45 supplier.

46 8. Within six months after residential customers
47 choose a retail electric supplier, electric utilities shall
48 implement an accelerated switching process where residential
49 customers may change retail electric suppliers within three
50 business days after the customers are permitted to choose a
51 retail electric supplier pursuant to the provision of
52 section 393.2006. Additionally, residential and small
53 commercial and industrial customers moving within an
54 electric utility's geographic service area shall continue to
55 receive electric supply services from the same retail
56 electric supplier without being required to switch to a
57 different retail electric supplier.

58 9. The commission shall have the authority to
59 investigate and establish rules for additional programs
60 designed to improve the retail customer's experience in

61 choosing a retail electric supplier for electric supply
62 services. Such programs may include, but are not limited
63 to, net-metering incentives, community solar programs,
64 customer referrals, and municipal aggregation programs.

393.2030. 1. Six months after August 28, 2026, the
2 commission shall develop a customer education program to
3 ensure that all retail customers have access to accurate
4 information about their ability to choose a retail electric
5 supplier. The program shall explore ways for the commission
6 to work with electric utilities and retail electric
7 suppliers to distribute educational pieces as well as
8 appropriate cost recovery from all customers to support the
9 customer education program. The commission may delegate to
10 the office of retail market development under section
11 393.2033 some or all of the administrative work required in
12 the development of the customer education program.

13 2. To the extent the costs of the customer education
14 program are known when the restructuring plans under section
15 393.2009 are submitted to the commission, costs may be
16 approved for recovery through the non-bypassable competitive
17 transition charge.

18 3. The commission shall explore the use of a website
19 that explains a retail electric supplier's services and
20 makes comparisons between the electric supply services and
21 related products being offered by retail electric suppliers.

393.2033. 1. The commission shall establish the
2 "Office of Retail Market Development and Oversight", to be
3 funded by an annual assessment of retail electric suppliers
4 based on a formula to be determined by the commission not to
5 exceed twenty thousand dollars annually per license under
6 section 393.2036.

7 (1) The office shall have the authority to seek input
8 from all interested parties and to develop a thorough
9 understanding and critical analyses of the tools and
10 techniques used to promote retail energy competition.

11 (2) The office shall monitor existing competitive
12 power market related conditions in the state, identify
13 barriers to retail competition for all customer classes, and
14 actively explore and propose to the commission solutions to
15 overcome identified barriers and enhance the competitive
16 retail power market.

17 (3) The office shall publish a report at the request
18 of the commission, but no less than annually. The report
19 shall include a number of complaints filed against each
20 retail electric supplier, steps taken to resolve the
21 complaints, and any other information deemed relevant by the
22 office.

23 (4) The office shall have the authority to address any
24 violations by a retail electric supplier through an
25 imposition of a probationary status which may include, but
26 shall not be limited to, enhanced oversight and additional
27 reporting requirements.

28 (5) The office shall submit to the commission any
29 recommendation for suspension or revocation of a retail
30 supplier's license if a violation occurred.

31 (6) The office shall develop and implement a
32 commission-approved online-training program that requires a
33 designated representative for each retail electric
34 supplier. By participating in the program, the designated
35 representative shall demonstrate a thorough understanding of
36 the commission's regulations regarding electric supply
37 services, consumer protection, and any other matter the
38 commission deems appropriate.

39 (7) At the conclusion of the online-training program
40 under subdivision (6) of this subsection, the office shall
41 conduct an online examination and, on a satisfactory score,
42 certify that the designated representative of the retail
43 electric supplier has successfully completed the online-
44 training program in a timely manner.

45 (8) The office shall determine the schedule and
46 frequency by which a designated representative of a retail
47 electric supplier shall complete the training and
48 certification. The commission shall not issue a license to
49 a retail electric supplier for the provision of electric
50 supply service in the state until a designated
51 representative has completed the online-training program and
52 received the certification.

53 2. The office shall make recommendations to the
54 commission concerning the establishment of guidelines for
55 the provision of electric supply services to residential
56 customers that ensure:

57 (1) Accurate and adequate pricing information through
58 marketing and disclosure statements;

59 (2) An understandable format that enables comparing
60 prices and services on a uniform basis; and

61 (3) Processes to confirm and document a customer's
62 intent to switch retail electric suppliers to avoid any
63 unauthorized switches of retail electric suppliers for
64 electric supply services.

65 3. The office, at the discretion of the commission,
66 may be tasked with some or all of the administrative work
67 required in the development of the guidelines under
68 subsection 2 of this section.

393.2036. 1. No person or company shall engage in the
2 business of electric supply services in this state unless

3 the person or company holds a retail electric supplier
4 license issued by the commission.

5 2. The commission shall develop a licensing process to
6 ensure retail electric suppliers seeking to do business in
7 the state are capable of providing adequate electric supply
8 service in the state. The licensing process shall include,
9 but is not limited to:

10 (1) An application to gather information as to whether
11 an applicant has the capacity to provide electric supply
12 service in the state;

13 (2) Internal procedures to process the application
14 under this section no later than ninety days after the
15 application is submitted;

16 (3) Establishing reasonable financial requirements to
17 ensure an applicant is capable of providing electric supply
18 service in the state;

19 (4) A licensing fee and a bond or other financial
20 surety instrument issued by a qualifying financial
21 institution authorized to do business in the state.

22 (a) The amount of the licensing fee shall not exceed
23 ten thousand dollars.

24 (b) The amount of the surety shall equal five hundred
25 thousand dollars per retail electric supplier license issued
26 by the commission.

27 (c) The financial surety shall be conditioned upon the
28 full and faithful performance of all duties and obligations
29 of the applicant as a retail electric supplier and shall be
30 valid for a period of not less than one year. The cost of
31 the surety shall be paid by the applicant. The applicant
32 shall submit a copy of the surety with a notarized
33 verification page from the issuer together with the
34 application;

35 (5) Training to ensure the applicant shall comply with
36 all state laws and commission rules.

37 3. The commission shall monitor the retail power
38 market for the supply and distribution of electricity to
39 retail customers to ensure retail electric suppliers are not
40 engaged in anticompetitive or discriminatory practices.

41 (1) If the commission finds that a retail electric
42 supplier engaged in anticompetitive or discriminatory
43 practices, the commission shall request the attorney general
44 to commence a civil action against the retail electric
45 supplier in a court of competent jurisdiction.

46 (2) If the court finds that a violation occurred, the
47 court may impose civil penalties in the amount not to exceed
48 one hundred thousand dollars per violation, damages,
49 injunctive relief, attorney fees, and any such other relief
50 the court finds appropriate.

51 (3) Any proceedings initiated pursuant to this section
52 shall be subject to the provisions of sections 386.400 to
53 386.610 and sections 386.700 to 386.710. Provisions of
54 sections 393.2000 to 393.2036 that are applicable to
55 proceedings involving electric utilities shall also apply to
56 retail electric suppliers.

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