

# SENATE BILL NO. 1280

102ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR CIERPIOT.

3835S.01I

KRISTINA MARTIN, Secretary

## AN ACT

To repeal sections 386.050, 386.480, 386.510, 386.700, 386.710, and 393.150, RSMo, and to enact in lieu thereof fourteen new sections relating to the public service commission, with penalty provisions.

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

Section A. Sections 386.050, 386.480, 386.510, 386.700, 2 386.710, and 393.150, RSMo, are repealed and fourteen new 3 sections enacted in lieu thereof, to be known as sections 4 386.050, 386.480, 386.510, 386.700, 386.710, 393.150, 393.1800, 5 393.1805, 393.1810, 393.1815, 393.1820, 393.1825, 393.1830, and 6 393.1835, to read as follows:

386.050. The commission shall consist of five members 2 who shall be appointed by the governor, with the advice and 3 consent of the senate, and one of whom shall be designated 4 by the governor to be chair of the commission. Each 5 commissioner, at the time of the commissioner's appointment 6 and qualification, shall be a resident of the state of 7 Missouri, and shall have resided in the state for a period 8 of at least five years next preceding the appointment and 9 qualification, and shall also be a qualified voter therein 10 and not less than twenty-five years of age. **There shall be** 11 **no more than one commission member from any congressional** 12 **district.** Upon the expiration of each of the terms of 13 office of the first commissioners, the term of office of 14 each commissioner thereafter appointed shall be six years

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

15 from the time of the commissioner's appointment and  
16 qualification and until his successor shall qualify.  
17 Vacancies in the commission shall be filled by the governor  
18 for the unexpired term.

386.480. **1.** No information furnished to the  
2 commission by a corporation, person or public utility,  
3 except such matters as are specifically required to be open  
4 to public inspection by the provisions of this chapter, or  
5 chapter 610, shall be open to public inspection or made  
6 public except on order of the commission, or by the  
7 commission or a commissioner in the course of a hearing or  
8 proceeding. The public counsel shall have full and complete  
9 access to public service commission files and records. Any  
10 officer or employee of the commission or the public counsel  
11 or any employee of the public counsel who, in violation of  
12 the provisions of this section, divulges any such  
13 information shall be guilty of a misdemeanor.

**2. Any party to a proceeding before the commission may  
15 request the commission adopt protections more restrictive  
16 than afforded by the commission's rules that otherwise  
17 govern the protection of certain information with such  
18 restrictions to apply to information, the disclosure of  
19 which could cause undue risk to critical infrastructure  
20 including, but not limited to, the bulk power system or  
21 other critical facilities, and cybersecurity measures.  
22 These protections may include the requirement that parties  
23 view the materials either on-site at the producing party's  
24 location or through an online portal without taking copies  
25 of the material. The restrictions may also include a  
26 limitation that only commission staff and the office of the  
27 public counsel be granted access to the materials. The  
28 commission shall grant a party's request when necessary to**

29 comply with federal law or regulation. If federal law or  
30 regulation does not require protection of the information,  
31 the commission shall employ the following balancing test to  
32 determine whether protection from disclosure is warranted:

33 (1) Whether disclosure will significantly aid the  
34 commission in fulfilling its functions;

35 (2) The harm or benefit which disclosure will cause to  
36 the public interest;

37 (3) The harm which disclosure will cause the public  
38 utility; and

39 (4) Alternatives to disclosure that will serve the  
40 public interest and protect the public utility.

386.510. 1. With respect to commission orders or  
2 decisions issued on and after July 1, 2011, within thirty  
3 days after the application for a rehearing is denied, or, if  
4 the application is granted, then within thirty days after  
5 the rendition of the decision on rehearing, the applicant  
6 may file a notice of appeal with the appellate court with  
7 the territorial jurisdiction over the county where the  
8 hearing was held or in which the commission has its  
9 principal office for the purpose of having the  
10 reasonableness or lawfulness of the original order or  
11 decision or the order or decision on rehearing inquired into  
12 or determined, which shall also be served on the commission  
13 and the parties to the commission proceeding in accordance  
14 with section 386.515; **provided, however, that the public**  
15 **counsel shall not be permitted to file a notice of appeal**  
16 **unless expressly authorized in writing to do so by the**  
17 **director of the department to which the office of the public**  
18 **counsel reports in accordance with the terms of subsection 2**  
19 **of this section.** Except with respect to a stay or  
20 suspension pursuant to subsection 1 of section 386.520, no

21 new or additional evidence may be introduced in the  
22 appellate court but the cause shall be heard by the court  
23 without the intervention of a jury on the evidence and  
24 exhibits introduced before the commission and certified to  
25 by it. The notice of appeal shall include the appellant's  
26 application for rehearing, a copy of the reconciliation  
27 required by subsection 4 of section 386.420, a concise  
28 statement of the issues being appealed, a full and complete  
29 list of the parties to the commission proceeding, all  
30 necessary filing fees, and any other information specified  
31 by the rules of the court. Unless otherwise ordered by the  
32 court of appeals, the commission shall, within thirty days  
33 of the filing of the notice of appeal, certify its record in  
34 the case to the court of appeals. The commission and each  
35 party to the action or proceeding before the commission  
36 shall have the right to intervene and participate fully in  
37 the review proceedings; **provided, however, that the public**  
38 **counsel shall not be permitted to participate in any appeal**  
39 **unless expressly authorized in writing to do so by the**  
40 **director of the department to which the office of the public**  
41 **counsel reports in accordance with the terms of subsection 2**  
42 **of this section.** Upon the submission of the case to the  
43 court of appeals, the court of appeals shall render its  
44 opinion either affirming or setting aside, in whole or in  
45 part, the order or decision of the commission under review.  
46 In case the order or decision is reversed by reason of the  
47 commission failing to receive testimony properly proffered,  
48 the court shall remand the cause to the commission, with  
49 instructions to receive the testimony so proffered and  
50 rejected, and enter a new order or render a new decision  
51 based upon the evidence theretofore taken, and such as it is  
52 directed to receive. The court may, in its discretion,

53 remand any cause which is reversed by it to the commission  
54 for further action. No court in this state, except the  
55 supreme court or the court of appeals, shall have  
56 jurisdiction or authority to review, reverse, correct or  
57 annul any order or decision of the commission or to suspend  
58 or delay the executing or operation thereof, or to enjoin,  
59 restrain or interfere with the commission in the performance  
60 of its official duties. The appellate courts of this state  
61 shall always be deemed open for the trial of suits brought  
62 to review the orders and decisions of the commission as  
63 provided in the public service commission law and the same  
64 shall where necessary be tried and determined as suits in  
65 equity.

66 **2. Any notice of appeal by public counsel or request**  
67 **by public counsel to participate in any appeal shall be**  
68 **accompanied by a communication in writing signed by the**  
69 **department director of the department to which the office of**  
70 **the public counsel reports granting the public counsel**  
71 **authorization to file the subject notice of appeal or**  
72 **request to participate, and certifying that such appeal or**  
73 **participation by the public counsel is reasonably likely to**  
74 **be successful on the merits, unlikely to result in higher**  
75 **utility service costs for the public in the future, and is a**  
76 **good and efficient use of scarce government resources. If**  
77 **no such written communication accompanies any notice of**  
78 **appeal by public counsel or any request by public counsel to**  
79 **participate in any appeal, the court shall reject the public**  
80 **counsel's notice of appeal or deny public counsel's request**  
81 **to participate.**

386.700. The [director of the department of economic  
2 development shall appoint a public counsel to serve at the  
3 pleasure of the director of the department] **governor shall**

4 **appoint a public counsel, with the advice and consent of the**  
5 **senate.** The public counsel shall be an attorney at law  
6 licensed to practice law in this state and whose salary  
7 shall be fixed by the [department] director **of the**  
8 **department to which the office of the public counsel reports**  
9 within the appropriation made therefor.

386.710. 1. The public counsel shall have the  
2 following powers and duties:

3 (1) He shall employ a staff or hire on a contract  
4 basis such employees and experts as are necessary to carry  
5 out the purposes and responsibilities of his office, and  
6 shall set their compensation within the appropriation made  
7 for that purpose;

8 (2) He may represent and protect the interests of the  
9 public in any proceeding before or appeal from the public  
10 service commission;

11 (3) He shall have discretion to represent or refrain  
12 from representing the public in any proceeding. He shall  
13 consider in exercising his discretion the importance and the  
14 extent of the public interest involved and whether that  
15 interest would be adequately represented without the action  
16 of his office. If the public counsel determines that there  
17 are conflicting public interests involved in a particular  
18 matter, he may choose to represent one such interest based  
19 upon the considerations of this section, to represent no  
20 interest in that matter, or to represent one interest and  
21 certify to the director of the department of economic  
22 development that there is a significant public interest  
23 which he cannot represent without creating a conflict of  
24 interest and which will not be protected by any party to the  
25 proceeding. The director of the department shall select an  
26 attorney, to be paid from funds appropriated for this

27 purpose, to represent that segment of the public certified  
28 to him by the public counsel as unrepresented. Nothing in  
29 this section shall be construed to limit the right of any  
30 person, firm or corporation specified in subsection 1 of  
31 section 386.390 to petition or make complaint to the  
32 commission or otherwise intervene in proceedings or other  
33 matters before the commission.

34 **2. In representing the interests of the public, the**  
35 **public counsel shall balance:**

36 **(1) The costs and rate impacts to all classes of**  
37 **current and future public utility customers;**

38 **(2) Promoting safe, resilient, and reliable public**  
39 **utility service;**

40 **(3) Ensuring the public utility has access to capital**  
41 **upon reasonable cost and terms; and**

42 **(4) Promoting economic development and job creation**  
43 **within the state.**

44 **3.** The public counsel shall be served with all  
45 proposed tariffs, initial pleadings, and applications, in  
46 all proceedings before the public service commission, and  
47 shall be served with a copy of all orders of the commission.

48 [3. Nothing in sections 386.071, 386.150, 386.155,  
49 386.170, 386.200, 386.330, 386.360, 386.390, 386.400,  
50 386.410, 386.420, 386.440, 386.450, 386.480, 386.500,  
51 386.530, 386.540, 386.600, 386.700 and 386.710, shall be  
52 construed or interpreted to mean that the public counsel  
53 shall not have the right to appeal any and all orders of the  
54 public service commission to the courts which right of  
55 appeal exists and has existed since the time of transfer as  
56 provided in section 386.500.]

57 **4. [He] The public counsel** shall have all powers  
58 necessary or proper to carry out the duties specified in

59 this section, **but the public counsel shall not have the**  
60 **power to initiate or participate in any appeal of any**  
61 **decision or order of the commission, without obtaining**  
62 **express authorization for such from the director of the**  
63 **department to which the office of the public counsel reports**  
64 **as provided in section 386.510.**

393.150. 1. Whenever there shall be filed with the  
2 commission by any gas corporation, electrical corporation,  
3 water corporation or sewer corporation any schedule stating  
4 a new rate or charge, or any new form of contract or  
5 agreement, or any new rule, regulation or practice relating  
6 to any rate, charge or service or to any general privilege  
7 or facility, the commission shall have, and it is hereby  
8 given, authority, either upon complaint or upon its own  
9 initiative without complaint, at once, and if it so orders  
10 without answer or other formal pleading by the interested  
11 gas corporation, electrical corporation, water corporation  
12 or sewer corporation, but upon reasonable notice, to enter  
13 upon a hearing concerning the propriety of such rate,  
14 charge, form of contract or agreement, rule, regulation or  
15 practice, and pending such hearing and the decision thereon,  
16 the commission upon filing with such schedule, and  
17 delivering to the gas corporation, electrical corporation,  
18 water corporation or sewer corporation affected thereby, a  
19 statement in writing of its reasons for such suspension, may  
20 suspend the operation of such schedule and defer the use of  
21 such rate, charge, form of contract or agreement, rule,  
22 regulation or practice, but not for a longer period than one  
23 hundred and twenty days beyond the time when such rate,  
24 charge, form of contract or agreement, rule, regulation or  
25 practice would otherwise go into effect; and after full  
26 hearing, whether completed before or after the rate, charge,



27 form of contract or agreement, rule, regulation or practice  
28 goes into effect, the commission may make such order in  
29 reference to such rate, charge, form of contract or  
30 agreement, rule, regulation or practice as would be proper  
31 in a proceeding initiated after the rate, charge, form of  
32 contract or agreement, rule, regulation or practice had  
33 become effective.

34 2. If any such hearing cannot be concluded within the  
35 period of suspension, as above stated, the commission may,  
36 in its discretion, extend the time of suspension for a  
37 further period not exceeding six months. At any hearing  
38 involving a rate sought to be increased, the burden of proof  
39 to show that the increased rate or proposed increased rate  
40 is just and reasonable shall be upon the gas corporation,  
41 electrical corporation, water corporation or sewer  
42 corporation, and the commission shall give to the hearing  
43 and decision of such questions preference over all other  
44 questions pending before it and decide the same as speedily  
45 as possible.

46 3. (1) **The test year for proceedings under this**  
47 **section shall be a future year utilizing a twelve-month**  
48 **period ending no later than twenty-four months after the**  
49 **filing of schedules stating new base rates. New base rates**  
50 **shall not go into effect before the first day of the future**  
51 **test year. For purposes of establishing the revenue**  
52 **requirement for the future test year, the commission shall**  
53 **utilize a thirteen-month average projected rate base, a**  
54 **thirteen-month average of the public utility's projected**  
55 **capital structure, a thirteen-month average of the public**  
56 **utility's projected cost of debt, projected revenues, and**  
57 **projected expenses. The thirteen-month average will be**  
58 **calculated using the projected month-end balances from the**

59 month new base rates are projected to be effective, and the  
60 next twelve consecutive projected month-end balances.

61 (2) Notwithstanding the provisions of subdivision (1)  
62 of this subsection, for a public utility that is also an  
63 electrical corporation, the commission shall not utilize a  
64 projected rate base but shall instead utilize the actual  
65 rate base for all rate base components as of the end of a  
66 historical test year with a true-up, except that for  
67 inventory, customer advances and deposits, and prepayments a  
68 thirteen-month average ending as of the true-up cutoff date  
69 shall be used. An electrical corporation may estimate the  
70 rate base as of the true-up cutoff date at the time it files  
71 its application. All other revenue requirement items shall  
72 be projected as provided for in subdivision (1) of this  
73 subsection. The true-up period selected by the electrical  
74 corporation shall be used to set base rates in proceedings  
75 under this section.

76 (3) With respect to public utilities that are not also  
77 an electrical corporation, within sixty days of the end of  
78 the future test year, such public utility shall update its  
79 base rates that were approved by the commission in its  
80 report and order issued in the proceeding under this section  
81 to reflect the total rate base at the end of the future test  
82 year.

83 (4) The test year selected by the public utility shall  
84 be used for setting base rates in proceedings under this  
85 section. The public counsel, the staff of the commission,  
86 and intervenors in the case may propose adjustments or other  
87 changes to the revenue requirement of the test year selected  
88 by the public utility but shall not present alternative base  
89 rates based on a test year different from that selected by  
90 the public utility.

91           4. In any proceeding under this section, the  
92 commission shall evaluate such public utility on a stand-  
93 alone basis and, for purposes of establishing revenue  
94 requirement, utilize such public utility's test year capital  
95 structure, without regard to the capital structure or  
96 investments of any other entities with which such public  
97 utility may be affiliated, unless the commission finds based  
98 on evidence in the record that the public utility's capital  
99 structure is imprudent. The capital structure shall include  
100 the relative proportions of common equity, long-term debt,  
101 and preferred stock consistent with the public utility's  
102 test year.

103           5. For purposes of this section, the following terms  
104 mean:

105           (1) "Base rates", rates or charges for public utility  
106 service other than rates or charges under any rate  
107 adjustment mechanism including, but not limited to, those  
108 approved under the provisions of sections 386.266, 393.1000,  
109 393.1009, 393.1030, 393.1075, and 393.1500;

110           (2) "Revenue requirement", the amount of retail  
111 revenues from base rates charged to retail customers for  
112 public utility service needed for a public utility to cover  
113 its cost to provide utility service including reasonable and  
114 necessary expenses, prudent investments, and the cost of  
115 capital;

116           (3) "True-up", an update of an electrical  
117 corporation's rate base as of the true-up cutoff date as  
118 compared to the last day of the test year utilized by the  
119 electrical corporation when schedules proposing new base  
120 rates were filed;

121           (4) "True-up cutoff date", a date selected by the  
122 electrical corporation that is not more than one hundred

123 eighty-five days after the electrical corporation's filing  
124 of schedules stating new base rates.

393.1800. 1. Sections 393.1800 to 393.1835 shall be  
2 known as the "Streamlined Base Rate Procedures Act".

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

4 (1) "Base rate case", a proceeding initiated by a  
5 public utility to adjust base rates charged to customers for  
6 public utility service, but shall not include a proceeding  
7 for the periodic adjustment of rates charged under any rate  
8 adjustment mechanism including, but not limited to, those  
9 approved under the provisions of sections 386.266, 393.1000,  
10 393.1009, 393.1030, 393.1075, and 393.1500;

11 (2) "Base rates", rates or charges for public utility  
12 service other than rates or charges under any rate  
13 adjustment mechanism including, but not limited to, those  
14 approved under the provisions of sections 386.266, 393.1000,  
15 393.1009, 393.1030, 393.1075, and 393.1500;

16 (3) "Capital structure", the proportion of elements of  
17 the long-term capital employed to finance public utility  
18 operations, typically comprised of common equity, long-term  
19 debt and preferred equity, and used in determining the  
20 weighted average cost of capital for setting base rates;

21 (4) "Commission", the public service commission  
22 established under section 386.040;

23 (5) "Commission staff", all personnel employed by the  
24 commission whether on a permanent or contractual basis  
25 except: commissioners; commissioner support staff, including  
26 technical advisory staff; personnel in the secretary's  
27 office; and personnel in the general counsel's office.  
28 Employees in the staff counsel's office are members of the  
29 commission staff;

30           (6) "Cross-rebuttal testimony", shall be filed only by  
31 the commission staff and participating parties and limited  
32 to material which is responsive to another party's rebuttal  
33 testimony;

34           (7) "Data request", an informal written request for  
35 documents or information that may be transmitted directly  
36 between attorneys, agents, or members of the commission,  
37 commission staff, public counsel, or other intervenors to a  
38 base rate proceeding initiated under sections 393.1800 to  
39 393.1835;

40           (8) "Direct testimony", all testimony and exhibits  
41 asserting and explaining the entire case-in-chief of the  
42 public utility initiating a base rate proceeding under  
43 sections 393.1800 to 393.1835. Only the public utility  
44 initiating a base rate proceeding under the act shall be  
45 permitted to submit direct testimony with accounting  
46 schedules demonstrating the revenue requirement;

47           (9) "Public utility", an electrical corporation, gas  
48 corporation, heating company, sewer corporation, or water  
49 corporation as those terms are defined in section 386.020  
50 that has filed an application pursuant to section 393.1805.  
51 The term shall not include an electrical corporation as  
52 described in subsection 2 of section 393.110;

53           (10) "Rebuttal testimony", all testimony only from the  
54 commission staff and participating parties which explains a  
55 party's acceptance, rejection, disagreement, or alternative  
56 to the direct testimony. Rebuttal testimony positions  
57 regarding the revenue requirement items shall be based on  
58 the accounting schedules and test year set forth in the  
59 direct testimony. The revenue requirement impacts resulting  
60 from rebuttal testimony positions shall be quantified by  
61 reference to the accounting schedules and test year set

62 forth in the direct testimony and shall be presented by  
63 commission staff and participating parties as adjustments to  
64 the revenue requirement presented in the direct testimony of  
65 the public utility initiating a base rate proceeding under  
66 sections 393.1800 to 393.1835;

67 (11) "Return on equity", the cost of the common equity  
68 component of the capital structure, expressed as a  
69 percentage and used in determining the weighted average cost  
70 of capital to use in setting base rates;

71 (12) "Revenue requirement", the amount of retail  
72 revenues from base rates charged to retail customers for  
73 public utility service needed for a public utility to cover  
74 its cost to provide utility service including reasonable and  
75 necessary expenses, prudent investments, and the cost of  
76 capital;

77 (13) "Surrebuttal testimony", testimony filed only by  
78 the public utility and limited to material that is  
79 responsive to another party's rebuttal or cross-rebuttal  
80 testimony.

393.1805. 1. A public utility may file an application  
2 to adjust its base rates pursuant to the provisions of  
3 sections 393.1800 to 393.1835. An application under  
4 sections 393.1800 to 393.1835 shall not be subject to the  
5 provisions of section 393.150 and sections 393.1800 to  
6 393.1835 shall abrogate any inconsistent procedures set  
7 forth in any other statute or regulations. The commission  
8 shall not reject an application for new base rates on the  
9 basis that it is filed pursuant to sections 393.1800 to  
10 393.1835.

11 2. The public utility's application shall include its  
12 direct testimony and responses to the data requests, if any,  
13 promulgated pursuant to subdivision (1) of section

14 393.1810. The application and direct testimony shall  
15 together include all information required by 20 CSR 4240-  
16 2.060(1) and 20 CSR 4240-3.030 in effect on December 31,  
17 2023.

18 3. (1) The test year for proceedings under sections  
19 393.1800 to 393.1835 shall be a future year utilizing a  
20 twelve-month period ending no later than twenty-four months  
21 after the filing of a rate application. New base rates may  
22 not go into effect before the first day of the future test  
23 year. For purposes of establishing the revenue requirement  
24 for the future test year, the commission shall utilize a  
25 thirteen-month average projected rate base, a thirteen-month  
26 average of the public utility's projected capital structure,  
27 a thirteen-month average of the public utility's projected  
28 cost of debt, projected revenues, and projected expenses.  
29 The thirteen-month average shall be calculated using the  
30 projected month-end balances from the month new base rates  
31 are projected to be effective, and the next twelve  
32 consecutive projected month-end balances.

33 (2) Notwithstanding the provisions of subdivision (1)  
34 of this subsection, for a public utility that is also an  
35 electrical corporation, the commission shall not utilize a  
36 projected rate base but shall instead utilize actual rate  
37 base for all rate base components as of the end of a  
38 historical test year with a true-up, except that for  
39 inventory, customer advances and deposits, and prepayments a  
40 thirteen-month average ending as of the true-up cutoff date  
41 shall be used. All other revenue requirement items shall be  
42 projected as provided for in subdivision (1) of this  
43 subsection. For purposes of this section, "true-up" is an  
44 update of an electrical corporation's rate base as of the  
45 "true-up cutoff date" as hereinafter defined as compared to

46 the last day of the test year utilized by the electrical  
47 corporation when the case was initiated. An electrical  
48 corporation may estimate the rate base as of the true-up  
49 cutoff date at the time it files its application. The "true-  
50 up cutoff date" shall be a date selected by the electrical  
51 corporation that is not more than one hundred ten days after  
52 the electrical corporation's filing of the application one  
53 hundred fifty days or more prior to the effective date of  
54 new base rates to be established by the commission in  
55 proceedings under sections 393.1800 to 393.1835. The true-  
56 up period selected by the electrical corporation shall be  
57 used to set base rates in proceedings under sections  
58 393.1800 to 393.1835.

59 (3) With respect to public utilities that are not also  
60 an electrical corporation, within sixty days of the end of  
61 the future test year, such public utility shall update its  
62 base rates that were approved by the commission in its final  
63 order issued in the proceeding under sections 393.1800 to  
64 393.1835 to reflect the total rate base at the end of the  
65 future test year.

66 (4) The test year selected by the public utility shall  
67 be used for setting base rates in proceedings under sections  
68 393.1800 to 393.1835. The public counsel, the staff of the  
69 commission, and intervenors in the case may propose  
70 adjustments or other changes to the revenue requirement of  
71 the test year selected by the public utility but may not  
72 present alternative base rates based on a test year  
73 different from that selected by the public utility.

74 4. In any application filed by a public utility for  
75 new base rates, the commission shall evaluate such public  
76 utility on a stand-alone basis and, for purposes of  
77 establishing revenue requirement, utilize such public



78 utility's test year capital structure without regard to the  
79 capital structure or investments of any other entities with  
80 which such public utility may be affiliated, unless the  
81 commission finds based on evidence in the record that the  
82 public utility's capital structure is imprudent. The  
83 capital structure shall include the relative proportions of  
84 common equity, long-term debt, and preferred stock  
85 consistent with the public utility's test year.

86 5. No entity or person other than a public utility  
87 shall file an application pursuant to sections 393.1800 to  
88 393.1835.

393.1810. 1. The commission shall promulgate a form  
2 set of no more than one hundred data requests, in which each  
3 data request sub-part shall constitute a data request  
4 itself, responses to which shall be submitted in the  
5 commission's data request repository. The commission shall  
6 promulgate such a form set of data requests on an interim  
7 basis as promptly as possible after the effective date of  
8 the act without the necessity of observing the rulemaking  
9 procedures of chapter 536. After the promulgation of the  
10 form set of data requests on an interim basis, the  
11 commission shall adopt a set of form data requests in  
12 accordance with the rulemaking procedures of chapter 536;  
13 provided, however, that any such rules shall be consistent  
14 with the provisions of sections 393.1800 to 393.1835 and  
15 shall not delay implementation of the provisions of sections  
16 393.1800 to 393.1835.

17 2. Commission staff, public counsel, and intervening  
18 parties may obtain information from the public utility  
19 through data requests concerning the books, records, data,  
20 case proposals, and information in the possession of the  
21 public utility, and to the extent necessary, any separately

22 incorporated shared services company providing services to  
23 that public utility. The public utility may obtain  
24 information from the commission staff, public counsel, and  
25 intervening parties through data requests on the position of  
26 the party or their experts related to the matters raised in  
27 the rebuttal or cross-rebuttal testimony. Other means of  
28 obtaining information from the parties shall not be  
29 permitted except that depositions may be taken in accordance  
30 with the Missouri rules of civil procedure.

393.1815. 1. The following deadlines shall apply in  
2 proceedings under sections 393.1800 to 393.1835 and be  
3 incorporated into a procedural schedule that shall be  
4 adopted by the commission reflecting the milestones and time  
5 frames reflected in sections 393.1800 to 393.1835:

6 (1) Motions to intervene shall be filed within fifteen  
7 days of the filing of the application;

8 (2) The deadline for commission staff, public counsel,  
9 and intervening parties to file rebuttal testimony, if any,  
10 shall be not later than one hundred five days after the  
11 filing of the application. Only rebuttal testimony that  
12 accepts, rejects, disagrees with, or reflects an alternative  
13 to the public utility's application and direct testimony  
14 shall be admissible as evidence;

15 (3) The deadline for commission staff, public counsel,  
16 and intervening parties to file cross-rebuttal testimony, if  
17 any, shall be not later than one hundred fifteen days after  
18 the filing of the application. Cross-rebuttal testimony  
19 shall be limited to material which is responsive to matters  
20 raised in another party's rebuttal testimony;

21 (4) The public utility shall file surrebuttal  
22 testimony and electrical corporations shall file true-up  
23 direct testimony, not later than one hundred thirty days

24 after the filing of the application. Surrebuttal testimony  
25 shall be limited to material which is responsive to matters  
26 raised in another party's rebuttal testimony. True-up  
27 direct testimony shall be limited to supporting the true-up  
28 accounting information and the quantification of the revenue  
29 requirement impact of the true-up;

30 (5) The evidentiary hearing shall commence not later  
31 than one hundred fifty-five days after the filing of the  
32 application;

33 (6) An electrical corporation shall provide accounting  
34 information for the rate base being trued-up and shall  
35 provide a quantification of the revenue requirement impact  
36 of the true-up not later one hundred thirty days after the  
37 filing of the application. Commission staff, public  
38 counsel, and intervening parties shall file true-up rebuttal  
39 testimony, if any, not later than one hundred forty days  
40 after the filing of the application. True-up rebuttal  
41 testimony shall consist solely of correcting any errors in  
42 the true-up accounting data or quantification of the impact  
43 of the true-up on the revenue. The electrical corporation  
44 shall file any true-up surrebuttal testimony that is  
45 responsive to true-up rebuttal testimony not later than one  
46 hundred fifty days after the filing of the application.  
47 Contested true-up issues, if any, shall be presented to the  
48 commission for resolution in the evidentiary hearing that is  
49 to be convened not later than one hundred fifty-five days  
50 after the filing of the application pursuant to subdivision  
51 (5) of this subsection;

52 (7) The commission shall ensure that final transcripts  
53 from the evidentiary hearing are provided to all parties no  
54 later than five business days after the conclusion of the  
55 evidentiary hearing. Any party may file post-hearing

56 initial briefs not later than twenty-five days after the end  
57 of the evidentiary hearing;

58 (8) Any party may file post-hearing reply briefs not  
59 later than ten days after the filing of post-hearing initial  
60 briefs;

61 (9) Data requests, objections, and responses shall  
62 have the following deadlines:

63 (a) Data requests to the public utility related to  
64 direct testimony shall be submitted not later than eighty-  
65 five days after the filing of the application. The public  
66 utility must submit objections to such data requests or  
67 notifications that it will require more than fifteen days to  
68 respond to the requesting party no later than ten days after  
69 receipt of the data request. Responses are due not later  
70 than fifteen days after receipt;

71 (b) The public utility may submit data requests  
72 regarding rebuttal testimony not later than ten days after  
73 the filing of rebuttal testimony. Objections to the public  
74 utility's data requests or notifications that it will  
75 require more than ten days to respond shall be submitted to  
76 the requesting party no later than five business days after  
77 receipt of the data request. Responses are due not later  
78 than ten days after receipt;

79 (c) Commission staff and participating parties may  
80 submit data requests regarding rebuttal testimony not later  
81 than three business days after the filing of rebuttal  
82 testimony. Objections to such data requests or  
83 notifications that it will require more than three business  
84 days to respond shall be submitted to the requesting party  
85 no later than three business days after receipt of the data  
86 request. Responses are due not later than three business  
87 days after receipt;

88           (d) Data requests regarding cross-rebuttal testimony  
89 shall be submitted not later than three business days after  
90 the filing of cross-rebuttal testimony. Objections to such  
91 data requests or notifications that it will require more  
92 than three business days to respond shall be submitted to  
93 the requesting party no later than three business days after  
94 receipt. Responses are due not later than three business  
95 days after receipt;

96           (e) Data requests regarding surrebuttal testimony  
97 shall be submitted to the public utility not later than  
98 three business days after the filing of surrebuttal  
99 testimony. Public utility objections or notifications that  
100 it will require more than five business days to respond  
101 shall be submitted to the requesting party no later than  
102 three business days after receipt of the data requests.  
103 Responses are due not later than five business days after  
104 receipt;

105           (f) Data requests regarding true-up testimony shall be  
106 submitted not later than three business days after the  
107 filing of the testimony to which the data request applies.  
108 Objections to true-up data requests or notifications that it  
109 will require more than three business days to respond shall  
110 be submitted to the requesting party no later than three  
111 business days after the data requests. Responses are due  
112 not later than three business days after receipt;

113           (g) Data requests received by a party after noon local  
114 time on a business day before a holiday or weekend shall be  
115 deemed received the next business day.

116           2. The commission may grant parties a reasonable  
117 extension of time to the deadlines in subsection 1 if the  
118 party demonstrates factors beyond its reasonable control  
119 render it unable to satisfy the deadline. The authority to

120 modify the procedural schedule shall not allow the  
121 administrative law judge nor the commission to extend the  
122 deadlines outlined in sections 393.1800 to 393.1835 for the  
123 evidentiary hearing or the issuance of its final order  
124 setting the public utility's revenue requirement and rates.

125 3. The commission shall convene at least one but no  
126 more than three public hearings to accept public comment  
127 within the area the public utility provides service. All  
128 public hearings shall be convened within one hundred thirty  
129 days after filing of the application. Such hearings may be  
130 conducted virtually.

131 4. If requested by the applicant no later than ninety  
132 days after the filing of the application under this section,  
133 the commission shall convene a mandatory settlement  
134 conference to be attended by all parties not later than one  
135 hundred thirty-five days after filing of the application.

136 5. If requested by the applicant no later than one  
137 hundred eighty days after the filing of the application  
138 under this section, the commission shall issue a proposed  
139 order adjudicating all open issues not later than two  
140 hundred five days after the filing of the application.  
141 Parties shall file any comments on the proposed order not  
142 later than ten days after issuance of a proposed order.

143 6. The Commission shall issue a final order setting  
144 the public utility's revenue requirement no later than two  
145 hundred thirty days after the filing of the application.

146 7. The public utility shall file proposed tariff  
147 sheets in compliance with the commission's final order  
148 within seven days after the commission issues its final  
149 order. The commission shall issue its order approving  
150 tariff sheets filed in compliance with the final commission  
151 order not later than eight days after the filing of such

152 proposed tariff sheets. The commission's order approving  
153 compliance tariff sheets shall become effective ten days  
154 after the issuance of such order.

393.1820. In any proceeding filed under sections  
2 393.1800 to 393.1835, the base rates filed in the  
3 application shall go into effect no later than two hundred  
4 fifty-five days after the date the public utility filed the  
5 application on an interim basis if the commission has not  
6 issued an order approving compliance tariff sheets  
7 consistent with the commission's final order to become  
8 effective by that date. The commission's final order  
9 pursuant to sections 393.1800 to 393.1835 shall replace  
10 interim rates placed into effect under this section.  
11 Interim base rates charged under this section shall not be  
12 subject to refund, nor shall any future rates be adjusted to  
13 account for any rate recoveries under the interim base rates  
14 in excess of what those recoveries would have been had the  
15 interim base rates not have been charged.

393.1825. 1. A public utility that is also an  
2 electrical corporation, gas corporation, or heating company  
3 may elect to base its return on equity on the fully-  
4 litigated case twelve-month average from the most recent  
5 report issued in the Regulatory Research Associates  
6 Regulatory Focus publication, or its successor publication,  
7 for the applicable utility type, in lieu of using a  
8 projected return on equity. In the case of electrical  
9 corporations, fully-litigated observations from cases for  
10 electric utilities in restructured jurisdictions or special  
11 rider or non-base rate cases in other jurisdictions shall be  
12 excluded from the average. If the utility elects to use  
13 such return on equity, such election shall be conclusive and  
14 binding on the commission for purposes of determining

15 revenue requirement and, except for purposes consistent with  
16 the last sentence of this subsection, no other evidence of  
17 return on equity shall be admitted. The commission may  
18 establish, in a case order or by other order, operational  
19 metrics for utilities which, if achieved, may result in an  
20 adjustment of up to twenty-five basis points above or below  
21 the Regulatory Research Associates Regulatory Focus  
22 publication, or its successor publication, fully-litigated  
23 case average return on equity determined as specified above,  
24 where dictated by customer service, operations, changing  
25 economic or market conditions, or other relevant factors.

26 2. The commission shall consider all admissible  
27 evidence on return on equity and select a reasonable return  
28 on equity for a public utility that chooses not to or cannot  
29 elect the return on equity treatment in subsection 1 of this  
30 section.

393.1830. 1. It is the public policy of sections  
2 393.1800 to 393.1835 to favor and promote settlement of  
3 cases conducted under sections 393.1800 to 393.1835. Any  
4 statute, rule or judicial application or interpretation  
5 thereof, including but not limited to Missouri state  
6 appellate opinions in *State ex rel. Fischer v. Public*  
7 *Service Commission of the State of Missouri*, reported at 545  
8 S.W.2d 39 and *State ex rel. Rice v. Public Service*  
9 *Commission*, reported at 220 S.W.3d 61, and any appellate  
10 decisions relying on the same, that are inconsistent with  
11 this policy, are hereby abrogated. With respect to  
12 settlement agreements in base rate cases under sections  
13 393.1800 to 393.1835, this section prescribes the only  
14 process that is due to a nonsettling party.

15 2. Settlement agreements reached between the public  
16 utility filing a base rate proceeding under sections



17 393.1800 to 393.1835 and the commission staff shall be  
18 presumed to be reasonable. The commission shall approve  
19 settlement agreements reached between the public utility and  
20 the commission staff and issue a final order setting the  
21 utility's revenue requirement on the terms specified in the  
22 settlement agreement absent a finding by the commission,  
23 based on competent and substantial evidence after hearing on  
24 the sole question of whether the settlement agreement's  
25 terms are reasonable, that the proposed settlement is  
26 contrary to the public interest.

393.1835. The provisions of sections 393.1800 to  
2 393.1835 are severable. If any provision of sections  
3 393.1800 to 393.1835 is found to be unconstitutional, the  
4 remaining provisions are valid. The provisions of this  
5 section shall be operative notwithstanding section 1.140.

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