

SENATE BILL NO. 756

101ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR WHITE.

3774S.03I

ADRIANE D. CROUSE, Secretary

AN ACT

To repeal sections 386.266, 393.1400, 393.1640, and 393.1655, RSMo, and to enact in lieu thereof six new sections relating to public utilities.

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

Section A. Sections 386.266, 393.1400, 393.1640, and
2 393.1655, RSMo, are repealed and six new sections enacted in
3 lieu thereof, to be known as sections 386.266, 393.1275,
4 393.1400, 393.1640, 393.1655, and 393.1656, to read as follows:

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

12 2. Subject to the requirements of this section, any
13 electrical, gas, or water corporation may make an
14 application to the commission to approve rate schedules
15 authorizing periodic rate adjustments outside of general
16 rate proceedings to reflect increases and decreases in its
17 prudently incurred costs, whether capital or expense, to

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

18 comply with any federal, state, or local environmental law,
19 regulation, or rule. Any rate adjustment made under such
20 rate schedules shall not exceed an annual amount equal to
21 two and one-half percent of the electrical, gas, or water
22 corporation's Missouri gross jurisdictional revenues,
23 excluding gross receipts tax, sales tax and other similar
24 pass-through taxes not included in tariffed rates, for
25 regulated services as established in the utility's most
26 recent general rate case or complaint proceeding. In
27 addition to the rate adjustment, the electrical, gas, or
28 water corporation shall be permitted to collect any
29 applicable gross receipts tax, sales tax, or other similar
30 pass-through taxes, and such taxes shall not be counted
31 against the two and one-half percent rate adjustment cap.
32 Any costs not recovered as a result of the annual two and
33 one-half percent limitation on rate adjustments may be
34 deferred, at a carrying cost each month equal to the
35 utilities net of tax cost of capital, for recovery in a
36 subsequent year or in the corporation's next general rate
37 case or complaint proceeding.

38 3. [Subject to the requirements of this section, any
39 gas or electrical corporation may make an application to the
40 commission to approve rate schedules authorizing periodic
41 rate adjustments outside of general rate proceedings to
42 adjust rates of customers in eligible customer classes to
43 account for the impact on utility revenues of increases or
44 decreases in residential and commercial customer usage due
45 to variations in either weather, conservation, or both. No
46 electrical corporation shall make an application to the
47 commission under this subsection if such corporation has
48 provided notice to the commission under subsection 5 of
49 section 393.1400. For purposes of this section: for

50 electrical corporations, "eligible customer classes" means
51 the residential class and classes that are not demand
52 metered; and for gas corporations, "eligible customer
53 classes" means the residential class and the smallest
54 general service class. As used in this subsection,
55 "revenues" means the revenues recovered through base rates,
56 and does not include revenues collected through a rate
57 adjustment mechanism authorized by this section or any other
58 provisions of law. This subsection shall apply to
59 electrical corporations beginning January 1, 2019, and shall
60 expire for electrical corporations on January 1, 2029.

61 **4.]** Subject to the requirements of this section, a
62 water corporation with more than eight thousand Missouri
63 retail customers may make an application to the commission
64 to approve rate schedules authorizing periodic rate
65 adjustments outside of general rate proceedings to ensure
66 revenues billed by such water corporation for regulated
67 services equal the revenue requirement for regulated
68 services as established in the water corporation's most
69 recent general rate proceeding or complaint proceeding,
70 excluding any other commission-approved surcharges and gross
71 receipts tax, sales tax, and other similar pass-through
72 taxes not included in tariffed rates, due to any revenue
73 variation resulting from increases or decreases in
74 residential, commercial, public authority, and sale for
75 resale usage.

76 **[5.] 4.** The commission shall have the power to
77 approve, modify, or reject adjustment mechanisms submitted
78 under subsections 1 to **[4] 3** of this section only after
79 providing the opportunity for a full hearing in a general
80 rate proceeding, including a general rate proceeding
81 initiated by complaint. The commission may approve such

82 rate schedules after considering all relevant factors which
83 may affect the costs or overall rates and charges of the
84 corporation, provided that it finds that the adjustment
85 mechanism set forth in the schedules:

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

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

93 (3) In the case of an adjustment mechanism submitted
94 under subsections 1 and 2 of this section, includes
95 provisions requiring that the utility file a general rate
96 case with the effective date of new rates to be no later
97 than four years after the effective date of the commission
98 order implementing the adjustment mechanism. However, with
99 respect to each mechanism, the four-year period shall not
100 include any periods in which the utility is prohibited from
101 collecting any charges under the adjustment mechanism, or
102 any period for which charges collected under the adjustment
103 mechanism must be fully refunded. In the event a court
104 determines that the adjustment mechanism is unlawful and all
105 moneys collected thereunder are fully refunded, the utility
106 shall be relieved of any obligation under that adjustment
107 mechanism to file a rate case;

108 (4) In the case of an adjustment mechanism submitted
109 under subsection 1 or 2 of this section, includes provisions
110 for prudence reviews of the costs subject to the adjustment
111 mechanism no less frequently than at eighteen-month
112 intervals, and shall require refund of any imprudently

113 incurred costs plus interest at the utility's short-term
114 borrowing rate.

115 [6.] 5. Once such an adjustment mechanism is approved
116 by the commission under this section, it shall remain in
117 effect until such time as the commission authorizes the
118 modification, extension, or discontinuance of the mechanism
119 in a general rate case or complaint proceeding.

120 [7.] 6. Any amounts charged under any adjustment
121 mechanism approved by the commission under this section
122 shall be separately disclosed on each customer bill.

123 [8.] 7. The commission may take into account any
124 change in business risk to the corporation resulting from
125 implementation of the adjustment mechanism in setting the
126 corporation's allowed return in any rate proceeding, in
127 addition to any other changes in business risk experienced
128 by the corporation.

129 [9.] 8. In the event the commission lawfully approves
130 an incentive- or performance-based plan, such plan shall be
131 binding on the commission for the entire term of the plan.
132 This subsection shall not be construed to authorize or
133 prohibit any incentive- or performance-based plan.

134 [10.] 9. Prior to August 28, 2005, for subsections 1
135 [to 3] and 2 of this section, and upon August 28, 2018, for
136 subsection [4] 3 of this section, the commission shall have
137 the authority to promulgate rules under the provisions of
138 chapter 536 as it deems necessary, to govern the structure,
139 content and operation of such rate adjustments, and the
140 procedure for the submission, frequency, examination,
141 hearing and approval of such rate adjustments. Any
142 electrical, gas, or water corporation may apply for any
143 adjustment mechanism under this section whether or not the
144 commission has promulgated any such rules.

145 [11.] 10. Nothing contained in this section shall be
146 construed as affecting any existing adjustment mechanism,
147 rate schedule, tariff, incentive plan, or other ratemaking
148 mechanism currently approved and in effect.

149 [12.] 11. Each of the provisions of this section is
150 severable. In the event any provision or subsection of this
151 section is deemed unlawful, all remaining provisions shall
152 remain in effect.

153 [13.] 12. The provisions of subsections 1 [to 3] and 2
154 of this section shall take effect on January 1, 2006, and
155 the commission shall have previously promulgated rules to
156 implement the application process for any rate adjustment
157 mechanism under subsections 1 [to 3] and 2 of this section
158 prior to the commission issuing an order for any such rate
159 adjustment.

160 [14. The public service commission shall appoint a
161 task force, consisting of all interested parties, to study
162 and make recommendations on the cost recovery and
163 implementation of conservation and weatherization programs
164 for electrical and gas corporations.

165 15. (1) Each public utility operating under a
166 mechanism proposed and approved under subsection 3 of this
167 section shall quarterly file a surveillance monitoring,
168 consisting of five parts. Each part, except the rate-base
169 quantifications report, shall contain information for the
170 last twelve-month period and the last quarter data for total
171 company electric operations and Missouri jurisdictional
172 operations. Rate-base quantifications shall contain only
173 information for the ending date of the period being reported.

174 (2) Part one of the surveillance monitoring report
175 shall be the rate-base quantifications report. The
176 quantification of rate-base items in part one shall be

177 consistent with the methods or procedures used in the most
178 recent rate proceeding unless otherwise specified. The
179 report shall consist of specific rate-base quantifications
180 of:

- 181 (a) Plant in service;
 - 182 (b) Reserve for depreciation;
 - 183 (c) Materials and supplies;
 - 184 (d) Cash working capital;
 - 185 (e) Fuel inventory, if applicable;
 - 186 (f) Prepayments;
 - 187 (g) Other regulatory assets;
 - 188 (h) Customer advances;
 - 189 (i) Customer deposits;
 - 190 (j) Accumulated deferred income taxes;
 - 191 (k) Any other item included in the electrical
192 corporation's rate base in its most recent rate proceeding;
 - 193 (l) Net operating income from part three; and
 - 194 (m) Calculation of the overall return on rate base.
- 195 (3) Part two of the surveillance monitoring report
196 shall be the capitalization quantifications report, which
197 shall consist of specific capitalization quantifications of:
- 198 (a) Common stock equity (net);
 - 199 (b) Preferred stock, par or stated value outstanding;
 - 200 (c) Long-term debt, including current maturities;
 - 201 (d) Short-term debt; and
 - 202 (e) Weighted cost of capital, including component
203 costs.
- 204 (4) Part three of the surveillance monitoring report
205 shall be the income statement, which shall consist of an
206 income statement containing specific quantification of:

207 (a) Operating revenues to include sales to industrial,
208 commercial, and residential customers, sales for resale, and
209 other components of total operating revenues;

210 (b) Operating and maintenance expenses for fuel
211 expense, production expenses, purchased power energy and
212 capacity, if applicable;

213 (c) Transmission expenses;

214 (d) Distribution expenses;

215 (e) Customer accounts expenses;

216 (f) Customer service and information expenses;

217 (g) Sales expenses;

218 (h) Administrative and general expenses;

219 (i) Depreciation, amortization, and decommissioning
220 expense;

221 (j) Taxes other than income taxes;

222 (k) Income taxes; and

223 (l) Quantification of heating degree and cooling
224 degree days, actual and normal.

225 (5) Part four of the surveillance monitoring report
226 shall be the jurisdictional allocation factor report, which
227 shall consist of a listing of jurisdictional allocation
228 factors for the rate base, capitalization quantification
229 reports, and income statement.

230 (6) Part five of the surveillance monitoring report
231 shall be the financial data notes, which shall consist of
232 notes to financial data including, but not limited to:

233 (a) Out of period adjustments;

234 (b) Specific quantification of material variances
235 between actual and budget financial performance;

236 (c) Material variances between current twelve-month
237 period and prior twelve-month period revenue;

- 238 (d) Expense level of items ordered by the commission
239 to be tracked under the order establishing the rate
240 adjustment mechanism;
- 241 (e) Budgeted capital projects; and
- 242 (f) Events that materially affect debt or equity
243 surveillance components.
- 244 (7) This subsection shall expire on January 1, 2029.]

393.1275. 1. The provisions of section 386.020

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

5 **2. Electrical corporations shall defer to a regulatory**
6 **asset or liability account any difference in state or local**
7 **property tax expenses actually incurred, and those on which**
8 **the revenue requirement used to set rates in the electrical**
9 **corporation's most recently completed general rate**
10 **proceeding was based. The regulatory asset or liability**
11 **account balances shall be included in the revenue**
12 **requirement used to set rates through an amortization over a**
13 **reasonable period of time in such corporation's subsequent**
14 **general rate proceedings, without any offset. The**
15 **commission shall also adjust the rate base used to establish**
16 **the revenue requirement of such corporation to reflect the**
17 **unamortized regulatory asset or liability account balances**
18 **in such general rate proceedings.**

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

- 3 (1) "Commission", the public service commission;
- 4 (2) "Electrical corporation", the same as defined in
5 section 386.020, but shall not include an electrical
6 corporation as described in subsection 2 of section 393.110;

7 (3) "Qualifying electric plant", all rate-base
8 additions, except rate-base additions for new coal-fired
9 generating units, new nuclear generating units, new natural
10 gas units, or rate-base additions that increase revenues by
11 allowing service to new customer premises;

12 (4) "Rate-base cutoff date", the date rate-base
13 additions are accounted for in a general rate proceeding.
14 In the absence of a commission order that specifies the rate-
15 base cutoff date, such date as reflected in any jointly
16 proposed procedural schedule submitted by the parties in the
17 applicable general rate proceeding, or as otherwise agreed
18 to by such parties, shall be used;

19 (5) "Weighted average cost of capital", the return on
20 rate base used to determine the revenue requirement in the
21 electrical corporation's most recently completed general
22 rate proceeding; provided, that in the absence of a
23 commission determination of the return on rate base within
24 the three-year period prior to August 28, [2018] **2022**, the
25 weighted average cost of capital shall be determined using
26 the electrical corporation's actual capital structure as of
27 December 31, [2017] **2021**, excluding short-term debt, the
28 electrical corporation's actual cost of long-term debt and
29 preferred stock as of December 31, [2017] **2021**, and a cost
30 of common equity of nine and one-half percent.

31 2. (1) Notwithstanding any other provision of this
32 chapter to the contrary, electrical corporations shall defer
33 to a regulatory asset eighty-five percent of all
34 depreciation expense and return associated with all
35 qualifying electric plant recorded to plant-in-service on
36 the utility's books commencing on or after August 28, 2018,
37 if the electrical corporation has made the election provided
38 for by subsection 5 of this section by that date, or on the

39 date such election is made if the election is made after
40 August 28, 2018. In each general rate proceeding concluded
41 after August 28, 2018, the balance of the regulatory asset
42 as of the rate-base cutoff date shall, **subject only to the**
43 **cap provided for in section 393.1655 or section 393.1656, as**
44 **applicable**, be included in the electrical corporation's rate
45 base without any offset, reduction, or adjustment based upon
46 consideration of any other factor, other than as provided
47 for in subdivision (2) of this subsection, with the
48 regulatory asset balance arising from deferrals associated
49 with qualifying electric plant placed in service after the
50 rate-base cutoff date to be included in rate base in the
51 next general rate proceeding. [The expiration of this
52 section shall not affect the continued inclusion in rate
53 base and amortization of regulatory asset balances that
54 arose under this section prior to such expiration.]

55 (2) The regulatory asset balances arising under this
56 section shall be adjusted to reflect any prudence
57 disallowances ordered by the commission. The provisions of
58 this section shall not be construed to affect existing law
59 respecting the burdens of production and persuasion in
60 general rate proceedings for rate-base additions.

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

70 3. (1) Depreciation expense deferred under this
71 section shall account for all qualifying electric plant
72 placed into service less retirements of plant replaced by
73 such qualifying electric plant.

74 (2) Return deferred under this section shall be
75 determined using the weighted average cost of capital
76 applied to the change in plant-related rate base caused by
77 the qualifying electric plant, plus applicable federal,
78 state, and local income or excise taxes. In determining the
79 return deferred, the electrical corporation shall account
80 for changes in all plant-related accumulated deferred income
81 taxes and changes in accumulated depreciation, excluding
82 retirements.

83 4. Beginning February 28, 2019, and by each February
84 twenty-eighth thereafter [while the electrical corporation
85 is allowed to make the deferrals provided for by subsection
86 2 of this section], electrical corporations that defer
87 depreciation expense and return authorized under this
88 section shall submit to the commission a five-year capital
89 investment plan setting forth the general categories of
90 capital expenditures the electrical corporation will pursue
91 in furtherance of replacing, modernizing, and securing its
92 infrastructure. The plan shall also include a specific
93 capital investment plan for the first year of the five-year
94 plan consistent with the level of specificity used for
95 annual capital budgeting purposes. For each of the first
96 five years that an electrical corporation [is allowed to
97 make] **makes** the deferrals provided for by subsection 2 of
98 this section, the purchase and installation of smart meters
99 shall constitute no more than six percent of the electrical
100 corporation's total capital expenditures during any given
101 year under the corporation's specific capital investment

102 plan. At least twenty-five percent of the cost of each
103 year's capital investment plan shall be comprised of grid
104 modernization projects, including but not limited to:

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

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

110 (3) Deployment and integration of distributed
111 resources and generation, including renewable resources;

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

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

119 (6) Integration of smart appliances and devices;

120 (7) Deployment and integration of advanced electricity
121 storage and peak-shaving technologies, including plug-in
122 electric and hybrid electric vehicles, and thermal storage
123 air conditioning;

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

126 (9) Development of standards for communication and
127 interoperability of appliances and equipment connected to
128 the electric grid, including the infrastructure serving the
129 grid; and

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

133 Project specific information need not be included for the
134 five-year period covered by the plan. Within thirty days of
135 the filing of any capital investment plan or annual update
136 to an existing plan, the electrical corporation shall host a
137 public stakeholder meeting to answer questions and receive
138 feedback about the plan. After feedback is received, the
139 electrical corporation shall file a notice with the
140 commission of any modifications to the capital investment
141 plan it has accepted. Changes to the plan, its
142 implementation, or the level of investments made shall not
143 constitute evidence of imprudence of the investments made
144 under such plan. The submission of a capital investment
145 plan under this section shall not affect in any way the
146 commission's authority with respect to the grant or denial
147 of a certificate of convenience and necessity under section
148 393.170. By February twenty-eighth following each year in
149 which the electrical corporation submits a capital
150 investment plan, the electrical corporation shall submit a
151 report to the commission detailing actual capital
152 investments made the previous year.

153 5. This section shall only apply to any electrical
154 corporation that has filed a notice with the commission of
155 the electrical corporation's election to make the deferrals
156 for which this section provides. No electrical corporation
157 shall file a notice with the commission under this
158 subsection if such corporation has made an application under
159 subsection 3 of section 386.266, and such application has
160 been approved. [An electrical corporation's election shall
161 allow it to make the deferrals provided for by subsection 2
162 of this section until December 31, 2023, unless the
163 electrical corporation requests and the commission approves
164 the continuation of such deferrals beyond that date and

165 approves continuation of the discounts authorized by section
166 393.1640 beyond that date as hereinafter provided. An
167 electrical corporation that wishes to continue to make the
168 deferrals provided for by subsection 2 of this section from
169 January 1, 2024, through December 31, 2028, shall obtain the
170 commission's approval to do so, shall be subject to the
171 compound annual growth rate limitations set forth under
172 section 393.1655, and shall also obtain the commission's
173 approval to continue to provide the discounts authorized by
174 section 393.1640 in a commission order issued on or before
175 December 31, 2023. The commission shall have the authority
176 to grant or deny such approval based upon the commission's
177 evaluation of the costs and benefits of such continuation to
178 electrical corporations and consumers, but shall not be
179 authorized to condition such approval or otherwise modify
180 the deferrals authorized by subsection 2 of this section, or
181 the discounts authorized by section 393.1640. In deciding
182 whether to extend the program for an additional five years,
183 the commission shall develop an objective analytical
184 framework to determine whether there is a continuing need.
185 The commission shall make a finding about whether there is a
186 continuing need after hearing. Failure to obtain such
187 commission approval shall not affect deferrals made through
188 December 31, 2023, or the regulatory and ratemaking
189 treatment of the regulatory assets arising from such
190 deferrals as provided for by this section.

191 6. This section shall expire on December 31, 2028,
192 except that the amortization of the regulatory asset
193 balances arising under this section shall continue to be
194 reflected in the electrical corporation's rates and
195 remaining regulatory asset balances shall be included in the
196 electrical corporation's rate base consistent with the

197 ratemaking treatment and amortization previously approved by
198 the commission pursuant to this section.]

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

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

17 (2) The customer receives local, regional, or state
18 economic development incentives in conjunction with the
19 incremental load; and

20 (3) The customer meets the criteria set forth in the
21 electrical corporation's economic development rider tariff
22 sheet, as approved by the commission, that are not
23 inconsistent with the provisions of this subsection] **When**
24 **the new load is reasonably projected to be at least three**
25 **hundred kilowatts but not more than ten megawatts and have a**
26 **load factor of at least forty-five percent, the discount**
27 **shall equal thirty-five percent and shall apply for five**
28 **years, provided that at such time as the new load exceeds**
29 **two megawatts the discount shall equal thirty percent and**
30 **the term shall be extended from five to seven years,**

31 provided that if the discount percentages available under
32 this subdivision are projected to result in a customer's
33 effective rate being below the electrical corporation's
34 variable cost to serve such load, the otherwise applicable
35 discount shall be reduced to a percentage necessary for the
36 projected rate applicable to the new load to be higher than
37 the electrical corporation's variable cost to serve such
38 load and for the resulting discounted rate also to make a
39 positive contribution to fixed costs associated with service
40 to such load;

41 (2) When the new load is reasonably projected to be
42 more than ten megawatts and have a load factor of at least
43 fifty-five percent, the discount percentage, rounded to the
44 nearest one percent, shall be determined such that the
45 applicant's total bill is expected to provide revenues equal
46 to one hundred twenty percent of the electrical
47 corporation's variable cost to serve the applicant's account
48 or accounts that are to receive the discount in aggregate
49 and shall apply for ten years.

50 To obtain one of the discounts set forth in subdivision (1)
51 or (2) of this subsection, the customer's load shall be
52 incremental, net of any offsetting load reductions due to
53 the termination of other accounts of the customer or an
54 affiliate of the customer within twelve months prior to the
55 commencement of service to the new load, customer shall
56 receive an economic development incentive from the local,
57 regional, state, or federal government, or from an agency or
58 program of any such government, in conjunction with the
59 incremental load, and the customer shall meet the criteria
60 set forth in the electrical corporation's economic
61 development rider tariff sheet, as approved by the

62 **commission, that are not inconsistent with the provisions of**
63 **this subsection.**

64 **Unless otherwise provided for by the electrical**
65 **corporation's tariff, the applicable** discount shall be a
66 percentage applied to all base-rate components of the bill.
67 [The percentage shall be fixed for each year of service
68 under the discount for a period of up to five years.
69 Subject to the remaining provisions of this subsection, the
70 average of the annual discount percentages shall equal forty
71 percent and shall not be less than thirty percent nor more
72 than fifty percent in any year.] The discount shall be
73 applied to such incremental load from the date when the
74 meter has been permanently set until the date that such
75 incremental load no longer meets the criteria required to
76 qualify for the discount, as determined under the provisions
77 of subsection 2 of this section. An eligible customer shall
78 also receive a ten percent discount of all base-rate
79 components of the bill applied to such incremental load for
80 **an additional** one year [after] **period beyond** the [initial]
81 **period during which the applicable** discount [period ends]
82 **under subdivision (1) or (2) of this subsection applies** if
83 the electrical corporation determines that the customer is
84 taking service from an under-utilized circuit. [In no event
85 shall a customer receive a discount under this subsection
86 after December 31, 2028.] The electrical corporation may
87 include in its tariff additional or alternative terms and
88 conditions to a customer's utilization of the discount,
89 subject to approval of such terms and conditions by the
90 commission. The customer, on forms supplied by the
91 electrical corporation, shall apply for the **applicable**
92 discount provided for by this subsection at least ninety

93 days prior to the date the customer requests that the
94 incremental demand receive **one of** the discounts provided for
95 by this subsection **and shall enter into a written agreement**
96 **with the electrical corporation reflecting the discount**
97 **percentages and other pertinent details.** If the incremental
98 demand is not separately metered, the electrical
99 corporation's determination of the incremental demand shall
100 control. **The electrical corporation shall verify the**
101 **customer's incremental demand annually to determine**
102 **continued qualification for the applicable discount.**
103 Notwithstanding the foregoing provisions of this subsection,
104 the cents-per-kilowatt-hour realization resulting from
105 application of any [such] discounted [rate] **rates** as
106 calculated shall be higher than the electrical corporation's
107 variable cost to serve such [accounts in aggregate]
108 **incremental demand** and the **applicable** discounted rate also
109 shall make a positive contribution to fixed costs associated
110 with [such] service **to such incremental demand.** If in a
111 subsequent general rate proceeding the commission determines
112 that application of [such] a discounted rate is not adequate
113 to cover the electrical corporation's variable cost to serve
114 [such] **the accounts in question** and provide a positive
115 contribution to fixed costs then the commission shall
116 increase the rate **for those accounts** prospectively to the
117 extent necessary to do so.

118 2. In each general rate proceeding concluded after
119 August 28, [2018] **2022**, the [reduced level of] **difference in**
120 revenues [arising from] **generated by applying** the
121 [application of] discounted rates provided for by
122 [subsection 1 of] **this section and the revenues that would**
123 **have been generated without such discounts shall not be**
124 **imputed into the electrical corporation's revenue**

125 **requirement. Instead, such revenue requirement shall be set**
126 **using the revenues generated by such discounted rates and**
127 **the impact of the discounts provided for by** this section
128 shall be allocated to all the electrical corporation's
129 customer classes, including the classes with customers that
130 qualify for discounts under this section[. This increase
131 shall be implemented] through the application of a uniform
132 percentage adjustment to the revenue requirement
133 responsibility of all customer classes. To qualify for the
134 discounted rates provided for in this section, [if
135 incremental load is separately metered,] customers shall
136 meet the applicable criteria within twenty-four months
137 [after the date the meter is permanently set] **of initially**
138 **receiving discounts** based on metering data for calendar
139 months thirteen through twenty-four and annually
140 thereafter. If such data indicates that the customer did
141 not meet [the criteria] **both of the three hundred kilowatt**
142 **and forty-five or fifty-five percent load factor**
143 **requirements** for any applicable twelve-month period, it
144 shall thereafter no longer qualify for [the] a discounted
145 rate. **For customers receiving service under subdivision (2)**
146 **of subsection 1 of this section, if after the fourth year,**
147 **the demand has not exceeded ten thousand kilowatts during**
148 **any twelve-month period, the customer's qualification shall**
149 **revert to subdivision (1) of subsection 1 of this section.**
150 The provisions of this section do not supersede or limit the
151 ability of an electrical corporation to continue to utilize
152 economic development or retention tariffs previously
153 approved by the commission that are in effect on August 28,
154 [2018] **2022.** If, however, a customer is receiving any
155 economic development or retention-related discounts as of
156 the date it would otherwise qualify for a discount provided

157 for by this section, the customer shall agree to relinquish
158 the prior discount concurrently with the date it begins to
159 receive a discount under this section; otherwise, the
160 customer shall not be eligible to receive any discount under
161 this section. Customer demand existing at the time the
162 customer begins to receive discounted rates under this
163 section shall not constitute incremental demand. The
164 discounted rates provided for by this section apply only to
165 base-rate components, with the charges or credits arising
166 from any rate adjustment mechanism authorized by law to be
167 applied to customers qualifying for discounted rates under
168 this section in the same manner as such rate adjustments
169 would apply in the absence of this section.

170 3. For purposes of this section, "electrical
171 corporation" shall mean the same as defined in section
172 386.020, but shall not include an electrical corporation as
173 described in subsection 2 of section 393.110.

174 [4. This section shall expire on December 31, 2028,
175 provided, that unless the electrical corporation has timely
176 obtained the order provided for by subsection 5 of section
177 393.1400, the electrical corporation's customers shall,
178 after December 31, 2023, no longer receive the discounts
179 provided under this section.]

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

10 of section 393.1400 with respect to the electrical
11 corporation, or until December 31, 2028, if the commission
12 has issued such an order with respect to the electrical
13 corporation].

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

34 3. This subsection shall apply to electrical
35 corporations that have a general rate proceeding pending
36 before the commission as of the later of February 1, 2018,
37 or August 28, 2018. If the difference between (a) the
38 electrical corporation's average overall rate at any point
39 in time while this section applies to the electrical
40 corporation, and (b) the electrical corporation's average
41 overall rate as of the date new base rates are set in the

42 electrical corporation's most recent general rate proceeding
43 concluded prior to the date the electrical corporation gave
44 notice under section 393.1400, reflects a compound annual
45 growth rate of more than three percent, the electrical
46 corporation shall not recover any amount in excess of such
47 three percent as a performance penalty.

48 4. This section shall apply to electrical corporations
49 that do not have a general rate proceeding pending before
50 the commission as of the later of February 1, 2018, or
51 August 28, 2018. If the difference between (a) the
52 electrical corporation's average overall rate at any point
53 in time while this section applies to the electrical
54 corporation, and (b) the average of (i) the electrical
55 corporation's average overall rate as of the date new base
56 rates are set in the electrical corporation's most recent
57 general rate proceeding concluded prior to the date the
58 electrical corporation gave notice under section 393.1400,
59 and (ii) the electrical corporation's average overall rate
60 set under section 393.137, reflects a compound annual growth
61 rate of more than two and eighty-five hundredths percent,
62 the electrical corporation shall not recover any amount in
63 excess of such two and eighty-five hundredths percent as a
64 performance penalty.

65 5. If a change in any rates charged under a rate
66 adjustment mechanism approved by the commission under
67 sections 386.266 and 393.1030 would cause an electrical
68 corporation's average overall rate to exceed the compound
69 annual growth rate limitation set forth in subsection 3 or 4
70 of this section, the electrical corporation shall reduce the
71 rates charged under that rate adjustment mechanism in an
72 amount sufficient to ensure that the compound annual growth
73 rate limitation set forth in subsection 3 or 4 of this

74 section is not exceeded due to the application of the rate
75 charged under such mechanism and the performance penalties
76 under such subsections are not triggered. Sums not
77 recovered under any such mechanism because of any reduction
78 in rates under such a mechanism pursuant to this subsection
79 shall be deferred to and included in the regulatory asset
80 arising under section 393.1400 or, if applicable, under the
81 regulatory and ratemaking treatment ordered by the
82 commission under section 393.1400, and recovered through an
83 amortization in base rates in the same manner as deferrals
84 under that section or order are recovered in base rates.

85 6. If the difference between (a) the electrical
86 corporation's class average overall rate at any point in
87 time while this section applies to the electrical
88 corporation, and (b) the electrical corporation's class
89 average overall rate as of the date rates are set in the
90 electrical corporation's most recent general rate proceeding
91 concluded prior to the date the electrical corporation gave
92 notice under subsection 5 of section 393.1400, reflects a
93 compound annual growth rate of more than two percent for the
94 large power service rate class, the class average overall
95 rate shall increase by an amount so that the increase shall
96 equal a compound annual growth rate of two percent over such
97 period for such large power service rate class, with the
98 reduced revenues arising from limiting the large power
99 service class average overall rate increase to two percent
100 to be allocated to all the electrical corporation's other
101 customer classes through the application of a uniform
102 percentage adjustment to the revenue requirement
103 responsibility of all the other customer classes.

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

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

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

115 (3) "Average rider rate", a rate calculated by
116 dividing the total of the sums to be recovered from all
117 customer classes under the electrical corporation's rate
118 adjustment mechanisms in place other than a rate adjustment
119 mechanism under section 393.1075 by the total sales volumes
120 stated in kilowatt-hours for all of the electrical
121 corporation's rate classes used to set rates under such rate
122 adjustment mechanisms, exclusive of gross receipts tax,
123 sales tax, and other similar pass-through taxes;

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

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

135 (6) "Class average rider rate", a rate calculated by
136 dividing the total of the sums allocated for recovery from
137 the large power service rate class under the electrical

138 corporation's rate adjustment mechanisms in place other than
139 a rate adjustment mechanism under section 393.1075 by the
140 total sales volumes stated in kilowatt-hours for that class
141 used to set rates under such rate adjustment mechanisms,
142 exclusive of gross receipts tax, sales tax, and other
143 similar pass-through taxes;

144 (7) "Force majeure event", an event or circumstance
145 that occurs as a result of a weather event, an act of God,
146 war, terrorism, or other event which threatens the financial
147 integrity of the electrical corporation that causes a
148 reduction in revenues, an increase in the cost of providing
149 electrical service, or some combination thereof, and the
150 event has an associated fiscal impact on the electrical
151 corporation's operations equal to three percent or greater
152 of the total revenue requirement established in the
153 electrical corporation's last general rate proceeding after
154 taking into account the financial impact specified in
155 section 393.137. Any force majeure event shall be subject
156 to commission review and approval, and shall not preclude
157 the commission from reviewing the prudence of any revenue
158 reductions or costs incurred during any proceeding to set
159 rates;

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

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

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

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

21 (1) "Commission", the public service commission;

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

25 (3) "Rate-base cutoff date", the date rate-base
26 additions are accounted for in a general rate proceeding.
27 In the absence of a commission order that specifies the rate-
28 base cutoff date, such date as reflected in any jointly
29 proposed procedural schedule submitted by the parties in the
30 applicable general rate proceeding, or as otherwise agreed
31 to by such parties, shall be used;

32 (4) "Revenue requirement impact cap", the product of
33 (i) one-twelfth of two and one-half percent, multiplied by
34 (ii) the number of months that have elapsed from the
35 effective date of new base rates in the electrical

36 corporation's most recently completed general rate
37 proceeding to the effective date of new base rates in the
38 general rate proceeding in which the cap is being applied,
39 with that product to be multiplied by the retail revenue
40 requirement used to set base rates in the electrical
41 corporation's most recently completed general rate
42 proceeding concluded prior to the general rate proceeding in
43 which the cap is being applied;

44 (5) "Subject section 393.1400 regulatory asset",
45 deferrals under section 393.1400 from the rate-base cutoff
46 date in the electrical corporation's prior general rate
47 proceeding to the rate-base cutoff date in the current
48 general rate proceeding in which the cap reflected in
49 subsection 2 of this section is being applied.

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