

SECOND REGULAR SESSION

SENATE BILL NO. 824

98TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR SCHATZ.

Pre-filed December 18, 2015, and ordered printed.

ADRIANE D. CROUSE, Secretary.

4885S.05I

AN ACT

To amend chapter 393, RSMo, by adding thereto seven new sections relating to electrical corporation energy efficiency.

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

Section A. Chapter 393, RSMo, is amended by adding thereto seven new sections, to be known as sections 393.1300, 393.1305, 393.1310, 393.1315, 393.1320, 393.1325, and 393.1330, to read as follows:

393.1300. Sections 393.1300 to 393.1325 shall be known as the "Energy Efficiency Competitive Resource Acquisition Act".

393.1305. As used in sections 393.1300 to 393.1325, the following terms shall mean:

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

(2) "Demand-side resource", a demand-side program or a demand-side rate conducted by an electrical corporation to modify the net consumption of electricity on the retail customer's side of the meter. A load building program or rate shall not be considered a demand-side resource;

(3) "Electrical corporation", the same as defined in section 386.020;

(4) "Independent monitor", an independent entity whose function is to ensure that the evaluations required by section 393.1315 are conducted in a fair and impartial manner and that neither the electrical corporation nor any other participant in the process receives preferential treatment or is denied the benefit of a fair process;

(5) "Renewable energy resources", the same as defined in section 393.1025;

(6) "Request for proposals" or "RFP", a public document in which

19 an electrical corporation identifies the size, timing, and other key
20 attributes of demand-side resources and energy efficiency projects in
21 order to solicit and screen for potential subsequent contract
22 negotiations, competitive pricing proposals to provide the requested
23 resources or projects;

24 (7) "RFP response", a sealed document submitted in response to
25 an RFP by an electrical corporation, person, or private entity offering
26 to meet the stated needs of the electrical corporation;

27 (8) "Resource plan", an electrical corporation's particular
28 combination of resources expected to be acquired or developed
29 according to a specified schedule over the planning horizon to meet
30 projected customer needs;

31 (9) "Supply-side resource", any device or method that an
32 electrical corporation can reasonably expect to use, develop,
33 implement, or acquire for purposes of providing to its customers an
34 adequate level and quality of electrical power supply.

35 (a) A supply-side resource shall include but not be limited to:

36 a. Full or partial ownership of plants using existing generation
37 technologies;

38 b. Full or partial ownership of new plants using new generation
39 technologies, including technologies expected to become commercially
40 available within twenty years of the issuance of the RFP;

41 c. Renewable energy resources on the utility-side of the meter,
42 including a wide variety of renewable generation technologies; and

43 d. Purchased power from bilateral transactions and from
44 organized capacity and energy markets;

45 (b) For the purposes of the RFP requirement, a supply-side
46 resource shall not include the following:

47 a. Life extension and refurbishment at existing generating
48 plants;

49 b. Enhancement of or additions to the emission controls at
50 existing or new generating plants;

51 c. Generating plant efficiency improvements which reduce the
52 utility's own use of energy; or

53 d. Upgrading of the transmission and distribution systems to
54 reduce power and energy losses, provided that transmission upgrades
55 that will facilitate the supply of capacity and energy from organized

56 capacity and energy markets shall be considered in meeting the
57 electrical corporation's supply needs.

393.1310. 1. Each electrical corporation in this state shall file a
2 resource plan with the commission every three years. Notwithstanding
3 the provisions of section 393.1075 to the contrary, if, according to the
4 electrical corporation's resource plan, the electrical corporation
5 projects that they will need new supply-side resources in order to meet
6 future maximum demand, one-third of the energy and capacity that the
7 electrical corporation projects that they will need in order to meet such
8 maximum demand shall be met by cost effective demand-side resources
9 and energy efficiency projects, including but not limited to equipment
10 upgrades, advanced energy analytics technology, and energy
11 management systems, and customer-sited renewable energy
12 resources. Such resources and projects shall be subject to a
13 competitive bidding process established by the commission. The
14 request for proposals process established by the commission shall
15 include stakeholder input and shall be complete by August 28, 2017.

16 2. An electrical corporation may participate in the RFP for an
17 energy efficiency project through a self-build option. Should the
18 electrical corporation or its affiliate choose to participate in the RFP,
19 the commission shall consider additional procedures to ensure the bid
20 proposed is technically sound and complete, commercially feasible, and
21 that risks for ratepayers are mitigated contractually. The self-build
22 option request for proposals bid shall be evaluated in the same manner
23 as all other request for proposals bid.

24 3. An electrical corporation may not recover from ratepayers any
25 costs incurred by the electrical corporation with a self-build option
26 that exceeds the self-build costs proposed in the request for proposals
27 bid.

393.1315. 1. The evaluation of the request for proposals bid shall
2 be performed by the electrical corporation, subject to the processes
3 designed by the independent monitor and approved by the commission
4 that ensure consistent application of the assumptions and projections
5 of costs associated with all bids received. The independent monitor
6 shall be chosen by a separate RFP. The commission staff shall oversee
7 the independent monitor and the independent monitor shall serve as
8 a liaison to the electrical corporation, third party bidders, the

9 commission, and the commission staff. The commission staff shall have
10 access to all information handled by the independent monitor. The
11 independent monitor shall be paid by the electrical corporation issuing
12 the RFP. The electrical corporation shall be reimbursed for the costs
13 of retaining the independent monitor through bid fees paid by
14 participants in the RFP.

15 2. The independent monitor shall enter into an agreement with
16 the commission that requires the monitor to:

17 (1) Keep all pricing and other proprietary commercial
18 information submitted by bidders or the electrical corporation in
19 conjunction with the request for proposals process confidential to
20 ensure the integrity of the bidding process;

21 (2) Develop and maintain a transparent process for the
22 evaluation of request for proposal bids received, including the use of
23 any models, analytical tools, data, or other materials that would impact
24 the status of bids received;

25 (3) Remain in force through the conclusion of the request for
26 proposals process, or until a contract is executed between the
27 successful request for proposals bidder and the electrical corporation
28 or the electrical corporation's self-build proposal, or an offer from an
29 affiliate is selected; and

30 (4) Stipulate dispute resolution mechanisms for various stages
31 in the request for proposals process, including those between the
32 electrical corporation and the independent monitor.

393.1320. If, as required by section 393.1310, an electrical
2 corporation issues a request for proposals for a demand-side resource
3 or energy efficiency project, or a customer-sited renewable energy
4 resource, receives request for proposals bids for the project, and hires
5 a person or private entity based upon the request for proposals bids
6 received, such electrical corporation shall make all request for
7 proposals bids available to the public on the electrical corporation's
8 website within thirty days of awarding a contract for such resource or
9 project; however, the electrical corporation may restrict the disclosure
10 of information included in the request for proposals bids, except for the
11 names of the persons or entities submitting a request for proposals bid,
12 on the grounds that such information is proprietary and highly
13 confidential. The request for proposals bids shall be placed

14 conspicuously on the electrical corporation's website, and shall be easy
15 for consumers to access. If such requests for proposals bids are not
16 placed on the electrical corporation's website within thirty days of
17 awarding a contract for such energy efficiency projects, or the
18 electrical corporation fails to provide the required information as set
19 forth in this section, any person may file a complaint with the
20 commission as set forth in section 386.390.

393.1325. 1. The commission shall issue an order ruling on any
2 objections to the electrical corporation proceeding to construct or
3 contract for its selected resource. The outcome of the RFP process
4 upon issuance of this order is intended to have the full force and effect
5 of the conveyance of a certificate of convenience and necessity to the
6 electrical corporation.

7 2. In addition to the other bases for disallowances or
8 adjustments, the commission may deny or limit cost recovery by an
9 electrical corporation in the event of imprudence in the request for
10 proposals process, including failure to comply with sections 393.1300 to
11 393.1330 or the request for proposals process established by the
12 commission, or the failure to ensure a reasonably competitive request
13 for proposals process.

393.1330. The commission shall promulgate rules to carry out the
2 purposes of sections 393.1300 to 393.1330. Any rule or portion of a rule,
3 as that term is defined in section 536.010 that is created under the
4 authority delegated in this section shall become effective only if it
5 complies with and is subject to all of the provisions of chapter 536, and,
6 if applicable, section 536.028. This section and chapter 536 are
7 nonseverable and if any of the powers vested with the general assembly
8 pursuant to chapter 536, to review, to delay the effective date, or to
9 disapprove and annul a rule are subsequently held unconstitutional,
10 then the grant of rulemaking authority and any rule proposed or
11 adopted after August 28, 2016, shall be invalid and void.

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