

FIRST REGULAR SESSION

# HOUSE BILL NO. 921

## 95TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES BROWN (73) (Sponsor), HOLSMAN AND LOW (Co-sponsors).

2024L.011

D. ADAM CRUMBLISS, Chief Clerk

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### AN ACT

To amend chapter 386, RSMo, by adding thereto one new section relating to demand-side energy resources.

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

Section A. Chapter 386, RSMo, is amended by adding thereto one new section, to be  
2 known as section 386.375, to read as follows:

**386.375. 1. As used in this section, the following terms shall mean:**

2       **(1) "Commission", the public service commission;**

3       **(2) "Cost-effective", an energy conservation measure that provides or saves a**  
4 **specific amount of energy during its life cycle results in the lowest present value of**  
5 **delivered energy costs of any available alternative;**

6       **(3) "Demand response", measures that decrease peak demand or shift demand to**  
7 **off-peak periods;**

8       **(4) "Demand-side program", any program or measure conducted by the utility to**  
9 **modify the net consumption of electricity on the retail customer's side of the electric meter,**  
10 **including, but not limited to energy-efficiency measures, load management, interruptible**  
11 **load, and on-site generation;**

12       **(5) "Energy efficiency", measures that reduce the amount of electricity or natural**  
13 **gas required to achieve a given end use;**

14       **(6) "Probable environmental costs", the costs to the utility of complying with likely**  
15 **new environmental laws, regulations, taxes, or other requirements, including those on**  
16 **emissions of greenhouse gases;**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17           (7) "Total resource cost test", a test that compares the sum of avoided utility costs  
18 and avoided probable environmental costs to the sum of all incremental costs of end-use  
19 measures that are implemented due to the program, including both utility and participant  
20 contributions, plus costs to administer, deliver, and evaluate each demand-side program  
21 in order to quantify the net savings obtained by sustaining the demand-side program for  
22 supply-side resources. Gas savings from electrical measures shall be attributed to  
23 electricity programs, and electricity savings from gas measures shall be attributed to gas  
24 programs. Present value of program costs shall be calculated over the lifetime of the  
25 measures in the program. Avoided utility costs include transmission and distribution costs;

26           (8) "Utility", a gas corporation or electrical corporation as those terms are defined  
27 in section 386.020.

28           2. The commission shall direct gas and electrical corporations to file energy-  
29 efficiency and demand-response programs with the commission, who shall review, approve,  
30 and reapprove the programs. To be approved, a program shall, if implemented, acquire  
31 all cost-effective energy-efficiency and demand-response resources available in the utility's  
32 service territory. New or updated programs shall be filed at least every three years. Each  
33 program shall be implemented within six months of the effective date of the tariff  
34 authorizing such program. The commission may direct a utility to modify or terminate a  
35 measure or program if, after adequate time for implementation, the commission determines  
36 that the measure or program is not meeting its goals or purposes. A utility may recover  
37 its reasonable and prudent costs for a terminated measure or program. With the consent  
38 of a utility, the commission may allow for a qualified third party to provide ratepayer-  
39 funded energy efficiency and demand response to the utility's customers.

40           3. Before approving a program, the commission shall determine that it is cost-  
41 effective using the total resource cost test. Low-income programs need not pass such test.  
42 Nothing in this section shall preclude the approval of energy-efficiency measures or  
43 programs that are not cost-effective if the costs of the measure or program above the level  
44 determined to be cost-effective and recoverable by the utility are funded by customers  
45 participating in the program or through tax or other governmental credits or incentives.

46           4. (1) The commission shall authorize utilities to recover the total costs of energy-  
47 efficiency programs in rates. The commission may authorize such costs to be recovered as  
48 an ongoing expense item or may allow a utility to capitalize all or a portion of the costs.

49           (2) The commission shall provide utilities an opportunity to earn a profit on energy-  
50 efficiency programs, based on demonstrated energy savings, that are financially more  
51 attractive to the utility than supply-side resources.

52           (3) The commission may provide for application by a utility for a mechanism to  
53 decouple revenue from sales. The commission may approve such application if it  
54 determines that the decoupling mechanism provides for the recovery of revenue that would  
55 otherwise be foregone as a result of energy-efficiency or demand- response programs and  
56 reasonably aligns the interests of the utility and its customers in favor of such programs.

57           5. (1) A utility shall submit an annual report to the commission that provides  
58 information about its actions to comply with this section. The report shall include  
59 documentation of program expenditures; customer participation levels; estimated energy  
60 savings, demand reductions, and customer monetary savings resulting from programs;  
61 evaluation of the cost-effectiveness of expenditures; a qualitative assessment of program  
62 effectiveness; and any other information the commission may require by rule.

63           (2) At least every three years, a utility shall submit a comprehensive evaluation,  
64 measurement, and verification report prepared by an independent program evaluator.  
65 The evaluator shall measure and verify energy and demand savings, determine the cost-  
66 effectiveness of each program, assess the performance of the utility-implementing  
67 programs, and, as appropriate, recommend how program performance can be improved.

68           6. The commission shall provide oversight and adopt rules and procedures as  
69 necessary to ensure that utilities achieve the goals of this section. The commission may  
70 integrate such rules into existing utility resource planning rules. The commission shall  
71 identify any regulatory disincentives or barriers to utility expenditures on energy efficiency  
72 and demand response and remove or, where legislative action is necessary, recommend  
73 legislative removal of such disincentives and barriers in a manner that balances the  
74 interests of the public, consumers, and investors.

75           7. As a further encouragement for energy conservation, the commission may adopt  
76 inverted rate structures.

77           8. The commission shall promulgate rules to implement the provisions of this  
78 section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo,  
79 that is created under the authority delegated in this section shall become effective only if  
80 it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if  
81 applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable  
82 and if any of the powers vested with the general assembly under chapter 536, RSMo, to  
83 review, to delay the effective date, or to disapprove and annul a rule are subsequently held  
84 unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted  
85 after August 28, 2009, shall be invalid and void.

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