

FIRST REGULAR SESSION

# HOUSE BILL NO. 628

## 99TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE MILLER.

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D. ADAM CRUMBLISS, Chief Clerk

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### AN ACT

To repeal sections 386.266, 386.390, 393.1025, and 393.1075, RSMo, and to enact in lieu thereof eleven new sections relating to ratemaking for public utilities.

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

Section A. Sections 386.266, 386.390, 393.1025, and 393.1075, RSMo, are repealed and  
2 eleven new sections enacted in lieu thereof, to be known as sections 386.266, 386.390, 393.1025,  
3 393.1075, 393.1275, 393.1400, 393.1410, 393.1600, 393.1610, 393.1640, and 393.1660, to read  
4 as follows:

386.266. 1. **(1)** Subject to the requirements of this section, any electrical corporation  
2 may make an application to the commission to approve rate schedules authorizing an interim  
3 energy charge, or periodic rate adjustments outside of general rate proceedings to reflect  
4 increases and decreases in its prudently incurred fuel and purchased-power costs, including  
5 transportation. **Such rate schedules shall also include and provide for adjustments reflecting**  
6 **all prudently incurred transmission charges not included in the costs covered by the**  
7 **immediately preceding sentence, and all transmission revenues paid to or received from**  
8 **any transmission service provider.** The commission may, in accordance with existing law,  
9 include in such rate schedules features designed to provide the electrical corporation with  
10 incentives to improve the efficiency and cost-effectiveness of its fuel and purchased-power  
11 procurement activities.

12       **(2) Electrical corporations may file with the commission to amend existing rate**  
13 **schedules that provide for recovery of fuel and purchased-power costs, including**  
14 **transportation, and may do so without the necessity of filing a general rate proceeding,**  
15 **with such amended rate schedules to include transmission charges and revenues as**

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.

16 **provided for in subdivision (1) of this subsection. Transmission charges and revenues paid**  
17 **to or received from any transmission service provider on or after the effective date of**  
18 **subdivision (1) of this subsection, to the extent they are not already reflected in base rates,**  
19 **shall be recovered beginning when the first rate adjustment is made that covers the**  
20 **accounting period that coincides with the effect date of subdivision (1) of this subsection.**

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

37       3. Subject to the requirements of this section, any gas corporation may make an  
38 application to the commission to approve rate schedules authorizing periodic rate adjustments  
39 outside of general rate proceedings to reflect the nongas revenue effects of increases or decreases  
40 in residential and commercial customer usage due to variations in either weather, conservation,  
41 or both.

42       4. The commission shall have the power to approve, modify, or reject adjustment  
43 mechanisms submitted under subsections 1 to 3 of this section only after providing the  
44 opportunity for a full hearing in a general rate proceeding, including a general rate proceeding  
45 initiated by complaint. The commission may approve such rate schedules after considering all  
46 relevant factors which may affect the costs or overall rates and charges of the corporation,  
47 provided that it finds that the adjustment mechanism set forth in the schedules:

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

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

53           (3) In the case of an adjustment mechanism submitted under subsections 1 and 2 of this  
54 section, includes provisions requiring that the utility file a general rate case with the effective  
55 date of new rates to be no later than four years after the effective date of the commission order  
56 implementing the adjustment mechanism. However, with respect to each mechanism, the  
57 four-year period shall not include any periods in which the utility is prohibited from collecting  
58 any charges under the adjustment mechanism, or any period for which charges collected under  
59 the adjustment mechanism must be fully refunded. In the event a court determines that the  
60 adjustment mechanism is unlawful and all moneys collected thereunder are fully refunded, the  
61 utility shall be relieved of any obligation under that adjustment mechanism to file a rate case;

62           (4) In the case of an adjustment mechanism submitted under subsection 1 or 2 of this  
63 section, includes provisions for prudence reviews of the costs subject to the adjustment  
64 mechanism no less frequently than at eighteen-month intervals, and shall require refund of any  
65 imprudently incurred costs plus interest at the utility's short-term borrowing rate.

66       5. Once such an adjustment mechanism is approved by the commission under this  
67 section, it shall remain in effect until such time as the commission authorizes the modification,  
68 extension, or discontinuance of the mechanism in a general rate case or complaint proceeding.

69       6. Any amounts charged under any adjustment mechanism approved by the commission  
70 under this section shall be separately disclosed on each customer bill.

71       7. The commission may take into account any change in business risk to the corporation  
72 resulting from implementation of the adjustment mechanism in setting the corporation's allowed  
73 return in any rate proceeding, in addition to any other changes in business risk experienced by  
74 the corporation.

75       8. In the event the commission lawfully approves an incentive- or performance-based  
76 plan, such plan shall be binding on the commission for the entire term of the plan. This  
77 subsection shall not be construed to authorize or prohibit any incentive- or performance-based  
78 plan.

79       9. Prior to August 28, 2005, the commission shall have the authority to promulgate rules  
80 under the provisions of chapter 536 as it deems necessary, to govern the structure, content and  
81 operation of such rate adjustments, and the procedure for the submission, frequency,  
82 examination, hearing and approval of such rate adjustments. Such rules shall be promulgated  
83 no later than one hundred fifty days after the initiation of such rulemaking proceeding. Any  
84 electrical, gas, or water corporation may apply for any adjustment mechanism under this section  
85 whether or not the commission has promulgated any such rules.

86        10. Nothing contained in this section shall be construed as affecting any existing  
87 adjustment mechanism, rate schedule, tariff, incentive plan, or other ratemaking mechanism  
88 currently approved and in effect.

89        11. Each of the provisions of this section is severable. In the event any provision or  
90 subsection of this section is deemed unlawful, all remaining provisions shall remain in effect.

91        12. The provisions of this section shall take effect on January 1, 2006, and the  
92 commission shall have previously promulgated rules to implement the application process for  
93 any rate adjustment mechanism under this section prior to the commission issuing an order for  
94 any rate adjustment.

95        13. The public service commission shall appoint a task force, consisting of all interested  
96 parties, to study and make recommendations on the cost recovery and implementation of  
97 conservation and weatherization programs for electrical and gas corporations.

386.390. 1. Complaint may be made by the commission of its own motion, or by the  
2 public counsel or any corporation or person, chamber of commerce, board of trade, or any civic,  
3 commercial, mercantile, traffic, agricultural or manufacturing association or organization, or any  
4 body politic or municipal corporation, by petition or complaint in writing, setting forth any act  
5 or thing done or omitted to be done by any corporation, person or public utility[, including any  
6 rule, regulation or charge heretofore established or fixed by or for any corporation, person or  
7 public utility,] in violation, or claimed to be in violation, of any provision of law **subject to the**  
8 **commission's authority, [or]** of any rule **promulgated by the commission, or of any tariff,**  
9 order or decision of the commission; provided, that no complaint shall be entertained by the  
10 commission, except upon its own motion, as to the reasonableness of any rates or charges of any  
11 gas, electrical, water, sewer, or telephone corporation, unless the same be signed by the public  
12 counsel or the mayor or the president or chairman of the board of aldermen or a majority of the  
13 council, commission or other legislative body of any city, town, village or county, within which  
14 the alleged violation occurred, or not less than twenty-five consumers or purchasers, or  
15 prospective consumers or purchasers, of such gas, electricity, water, sewer or telephone service.

16        2. All matters upon which complaint may be founded may be joined in one hearing, and  
17 no motion shall be entertained against a complaint for misjoinder of causes of action or  
18 grievances or misjoinder or nonjoinder of parties; and in any review by the courts of orders or  
19 decisions of the commission the same rule shall apply with regard to the joinder of causes and  
20 parties as herein provided.

21        3. The commission shall not be required to dismiss any complaint because of the absence  
22 of direct damage to the complainant. Upon the filing of a complaint, the commission shall cause  
23 a copy thereof to be served upon the public utility, corporation or person complained of.

24        4. Service in all hearings, investigations and proceedings pending before the commission  
25 may be made upon any person upon whom summons may be served in accordance with the  
26 provisions of the code of civil procedure of this state, and may be made personally or by mailing  
27 in a sealed envelope with postage prepaid.

28        5. The commission shall fix the time when and the place where a hearing will be had  
29 upon the complaint and shall serve notice thereof, not less than ten days before the time set for  
30 such hearing, unless the commission shall find that the public necessity requires that such  
31 hearing be held at an earlier date.

393.1025. As used in sections 393.1020 to 393.1030, the following terms mean:

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

3        (2) "Department", the department of natural resources;

4        (3) "Electric utility", any electrical corporation as defined by section 386.020;

5        (4) "Renewable energy credit" or "REC", a tradeable certificate of proof that one  
6 megawatt-hour of electricity has been generated from renewable energy sources; and

7        (5) "Renewable energy resources", electric energy produced from wind, solar thermal  
8 sources, photovoltaic cells and panels, dedicated crops grown for energy production, cellulosic  
9 agricultural residues, plant residues, **processed solid biomass engineered fiber fuel as defined**  
10 **in section 393.1600**, methane from landfills, from agricultural operations, or from wastewater  
11 treatment, thermal depolymerization or pyrolysis for converting waste material to energy, clean  
12 and untreated wood such as pallets, hydropower (not including pumped storage) that does not  
13 require a new diversion or impoundment of water and that has a nameplate rating of ten  
14 megawatts or less, fuel cells using hydrogen produced by one of the above-named renewable  
15 energy sources, and other sources of energy not including nuclear that become available after  
16 November 4, 2008, and are certified as renewable by rule by the department.

393.1075. 1. This section shall be known as the "Missouri Energy Efficiency Investment

2 Act".

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

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

5        (2) "Demand response", measures that decrease peak demand or shift demand to off-peak  
6 periods;

7        (3) "Demand-side program", any program conducted by the utility to modify the net  
8 consumption of electricity on the retail customer's side of the electric meter, including but not  
9 limited to energy efficiency measures, load management, demand response, and interruptible or  
10 curtailable load, **and the utilization of combined heat and power technology to generate**  
11 **electricity from waste heat and assist customers with reducing the amount of electricity**

12 **delivered by such electrical corporation, notwithstanding that such utilization may not**  
13 **modify consumption of energy on the customer's side of the meter;**

14       **(4) "Electrical corporation", the same as defined in section 386.020, but shall not**  
15 **include an electrical corporation regulated under chapters 386 and 393 but not subject to**  
16 **the commission's jurisdiction over its rates, financing, accounting, or management under**  
17 **subsection 2 of section 393.110;**

18       **(5) "Energy efficiency", measures that reduce the amount of electricity required to**  
19 **achieve a given end use;**

20       **[(5)] (6) "Interruptible or curtailable rate", a rate under which a customer receives a**  
21 **reduced charge in exchange for agreeing to allow the utility to withdraw the supply of electricity**  
22 **under certain specified conditions;**

23       **[(6)] (7) "Total resource cost test", a test that compares the sum of avoided utility costs**  
24 **and avoided probable environmental compliance costs to the sum of all incremental costs of**  
25 **end-use measures that are implemented due to the program, as defined by the commission in**  
26 **rules.**

27       3. It shall be the policy of the state to value demand-side investments equal to traditional  
28 investments in supply and delivery infrastructure and allow recovery of all reasonable and  
29 prudent costs of delivering cost-effective demand-side programs. In support of this policy, the  
30 commission shall:

31           (1) Provide timely cost recovery for utilities;

32           (2) Ensure that utility financial incentives are aligned with helping customers use energy  
33 more efficiently and in a manner that sustains or enhances utility customers' incentives to use  
34 energy more efficiently; and

35           (3) Provide timely earnings opportunities associated with cost-effective measurable and  
36 verifiable efficiency savings.

37       4. The commission shall permit electric corporations to implement  
38 commission-approved demand-side programs proposed pursuant to this section with a goal of  
39 achieving all cost-effective demand-side savings. Recovery for such programs shall not be  
40 permitted unless the programs are approved by the commission, result in energy or demand  
41 savings and are beneficial to all customers in the customer class in which the programs are  
42 proposed, regardless of whether the programs are utilized by all customers. The commission  
43 shall consider the total resource cost test a preferred cost-effectiveness test. Programs targeted  
44 to low-income customers or general education campaigns do not need to meet a  
45 cost-effectiveness test, so long as the commission determines that the program or campaign is  
46 in the public interest. Nothing herein shall preclude the approval of demand-side programs that  
47 do not meet the test if the costs of the program above the level determined to be cost-effective

48 are funded by the customers participating in the program or through tax or other governmental  
49 credits or incentives specifically designed for that purpose.

50       5. To comply with this section the commission may develop cost recovery mechanisms  
51 to further encourage investments in demand-side programs including, in combination and  
52 without limitation: capitalization of investments in and expenditures for demand-side programs,  
53 rate design modifications, accelerated depreciation on demand-side investments, and allowing  
54 the utility to retain a portion of the net benefits of a demand-side program for its shareholders.  
55 In setting rates the commission shall fairly apportion the costs and benefits of demand-side  
56 programs to each customer class except as provided for in subsection 6 of this section. Prior to  
57 approving a rate design modification associated with demand-side cost recovery, the commission  
58 shall conclude a docket studying the effects thereof and promulgate an appropriate rule.

59       6. The commission may reduce or exempt allocation of demand-side expenditures to  
60 low-income classes, as defined in an appropriate rate proceeding, as a subclass of residential  
61 service.

62       7. ~~[Provided that the customer has notified the electric]~~ A customer meeting the  
63 criteria specified in this subsection may notify an electrical corporation in writing that the  
64 customer elects not to participate in demand-side measures offered by ~~[an]~~ the electrical  
65 corporation ~~as to some or all of the customer's electric service accounts. Starting with the~~  
66 ~~first day of the billing cycle month occurring after such notification is given, [none of the~~  
67 ~~costs of] charges arising from~~ demand-side measures of ~~[an electric]~~ the electrical corporation  
68 offered under this section or by any other authority~~[, and no other charges implemented in~~  
69 ~~accordance with this section,]~~ shall not be ~~[assigned to any account of any customer]~~ included  
70 ~~on the bill for any account of the customer specified in such notice, including any bill for~~  
71 ~~such an account issued to~~ its affiliates and subsidiaries~~[, meeting]~~. To be eligible to give the  
72 notice provided for in this subsection, the customer shall meet one or more of the following  
73 criteria:

74           (1) The customer has one or more accounts within the service territory of the electrical  
75 corporation that has a demand of five thousand kilowatts or more;

76           (2) The customer operates an interstate pipeline pumping station, regardless of size; or

77           (3) The customer has accounts within the service territory of the electrical corporation  
78 that have, in aggregate, a demand of two thousand five hundred kilowatts or more, and the  
79 customer has a comprehensive demand-side or energy efficiency program and can demonstrate  
80 an achievement of savings at least equal to those expected from utility-provided programs.

81       8. Eligible customers that have ~~[notified]~~ provided notice under subsection 7 of this  
82 section to the electrical corporation that they do not wish to participate in demand-side programs  
83 under this section ~~as to some, or all, of their electric service accounts~~ shall not subsequently

84 be eligible to participate in demand-side programs [except under guidelines established by the  
85 commission in rulemaking] for the specified accounts unless the customer provides an  
86 additional notice, in writing, rescinding its previous notice as to some or all of the  
87 customer's accounts.

88 9. Customers who participate in demand-side programs initiated after August 1, 2009,  
89 shall be required to participate in program funding for a period of time to be established by the  
90 commission in rulemaking.

91 10. Customers electing not to participate in an electric corporation's demand-side  
92 programs under this section shall still be allowed to participate in interruptible or curtailable rate  
93 schedules or tariffs offered by the electric corporation.

94 11. The commission shall provide oversight and may adopt rules and procedures and  
95 approve corporation-specific settlements and tariff provisions, independent evaluation of  
96 demand-side programs, as necessary, to ensure that electric corporations can achieve the goals  
97 of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is  
98 created under the authority delegated in this section shall become effective only if it complies  
99 with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028.  
100 This section and chapter 536 are nonseverable and if any of the powers vested with the general  
101 assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and  
102 annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and  
103 any rule proposed or adopted after August 28, 2009, shall be invalid and void.

104 12. Each electric corporation shall submit an annual report to the commission describing  
105 the demand-side programs implemented by the utility in the previous year. The report shall  
106 document program expenditures, including incentive payments, peak demand and energy savings  
107 impacts and the techniques used to estimate those impacts, avoided costs and the techniques used  
108 to estimate those costs, the estimated cost-effectiveness of the demand-side programs, and the  
109 net economic benefits of the demand-side programs.

110 13. Charges attributable to demand-side programs under this section shall be clearly  
111 shown as a separate line item on bills to the electrical corporation's customers.

112 14. ~~[1] Any customer of an electrical corporation who has received a state tax credit  
113 under sections 135.350 to 135.362 or under sections 253.545 to 253.561 shall not be eligible for  
114 participation in any demand-side program offered by an electrical corporation under this section  
115 if such program offers a monetary incentive to the customer, except as provided in subdivision  
116 (4) of this subsection.~~

117 ————— ~~(2) As a condition of participation in any demand-side program offered by an electrical  
118 corporation under this section when such program offers a monetary incentive to the customer,  
119 the commission shall develop rules that require documentation to be provided by the customer~~

120 to the electrical corporation to show that the customer has not received a tax credit listed in  
121 subdivision (1) of this subsection.

122 \_\_\_\_\_ (3) The penalty for a customer who provides false documentation under subdivision (2)  
123 of this subsection shall be a class A misdemeanor.

124 \_\_\_\_\_ (4) The provisions of this subsection shall not apply to any low-income customer who  
125 would otherwise be eligible to participate in a demand-side program that is offered by an  
126 electrical corporation to low-income customers.

127 \_\_\_\_\_ 15.] The commission shall develop rules that provide for disclosure of participants in all  
128 demand-side programs offered by electrical corporations under this section when such programs  
129 provide monetary incentives to the customer. The disclosure required by this subsection may  
130 include, but not be limited to, the following: the name of the participant, or the names of the  
131 principles if for a company, the property address, and the amount of the monetary incentive  
132 received.

**393.1275. 1. The provisions of section 386.020 defining words, phrases, and terms  
2 shall apply to and determine the meaning of all such words, phrases, or terms as used in  
3 this section.**

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

13       **3. On and after the effective date of rates in an electrical corporation's next general  
14 rate proceeding concluding after the effective date of this section, the electrical corporation  
15 shall defer to a regulatory asset or liability account any difference in the operations and  
16 maintenance expense actually incurred to protect the reliability and security of systems,  
17 software, equipment, and facilities connected to or controlling the electric system against  
18 physical or cyber-security threats including, but not limited to, generating stations,  
19 substations, and control centers, and the operations and maintenance expense for such  
20 protection that was used to set rates in the electrical corporation's prior general rate  
21 proceeding. The regulatory asset or liability account balances shall be included in the  
22 revenue requirement used to set rates through an amortization over a reasonable period  
23 of time in such corporation's subsequent general rate proceedings, without any offset. The**

24 commission shall also adjust the rate base used to establish the revenue requirement of  
25 such corporation to reflect the unamortized regulatory asset or liability account balances  
26 in such general rate proceedings.

393.1400. 1. This section and section 393.1640 shall be known and may be cited as  
2 the "Missouri Economic Development and Infrastructure Investment Act".

3 2. For purposes of this section and section 393.1640, the following terms shall mean:

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

5 (2) "Electrical corporation", the same as defined in section 386.020, but shall not  
6 include an electrical corporation regulated under chapters 386 and 393 but not subject to  
7 the commission's jurisdiction over its rates, financing, accounting, or management under  
8 subsection 2 of section 393.110;

9 (3) "Qualifying electric plant", shall consist of all rate base additions except those  
10 rate base additions that increase revenues by allowing service to new customer premises;

11 (4) "Relevant period", a period starting on the date on which rate base additions  
12 are accounted for in developing an electrical corporation's revenue requirement in a  
13 general rate proceeding, and ending on the date on which rate base additions are  
14 accounted for in the electrical corporation's subsequent general rate proceeding, with the  
15 first relevant period starting on the effective date of this section.

16 3. (1) Notwithstanding any provisions of sections 393.130, 393.140, 393.150,  
17 393.260, and 393.270 to the contrary, electrical corporations shall defer depreciation  
18 expense and return, calculated as provided for in this section, associated with all of the  
19 projects that constitute qualifying electric plant placed in service during each relevant  
20 period. The amounts so deferred shall be recorded to a separate regulatory asset account,  
21 and the balance in the regulatory asset account for the relevant period shall be included  
22 in the electrical corporation's rate base in each of the electrical corporation's general rate  
23 proceedings without any offset, reduction, or adjustment based upon consideration of any  
24 other factor, other than as provided for in subdivision (2) of this subsection and as limited  
25 by subsection 7 of this section. The expiration of this section shall not affect the continued  
26 inclusion in rate base and amortization after such expiration or determination of  
27 regulatory asset balances that arose under this section prior to such expiration or  
28 determination.

29 (2) The amounts deferred to regulatory asset accounts under this section shall be  
30 subject to adjustment to reflect any prudence disallowances ordered by the commission in  
31 the general rate proceeding in which the qualifying electric plant for which deferrals were  
32 recorded is first included in its rate base.

33       (3) The regulatory assets created under this section shall include carrying costs at  
34 the electrical corporation's weighted average cost of capital, plus applicable federal, state,  
35 and local income or excise taxes, from the electrical corporation's most recently completed  
36 general rate proceeding concluded prior to the relevant period, and shall be amortized and  
37 recovered in rates, subject to the limitations of subsection 7 of this section, beginning with  
38 the effective date of rates in the general rate proceeding where the regulatory asset account  
39 balance is first included in its rate base, over twenty years.

40       4. For purposes of calculating deferred depreciation expense and return under this  
41 section:

42       (1) Deferred depreciation expense shall equal the original cost of each project  
43 included in the qualifying electric plant placed in service during the relevant period less  
44 retirements of plant replaced by such qualifying electric plant, multiplied by the  
45 depreciation rate applicable to qualifying projects, calculated using the depreciation rates  
46 used to set rates in the electrical corporation's most recently completed general rate  
47 proceeding concluded prior to the end of the relevant period;

48       (2) Deferred return shall equal the change in plant-related rate base during the  
49 relevant period multiplied by the electrical corporation's weighted average cost of capital  
50 used to determine the electrical corporation's revenue requirement in the electrical  
51 corporation's most recently completed general rate proceeding concluded prior to the  
52 relevant period, plus applicable federal, state, and local income or excise taxes. The change  
53 in plant-related rate base during the relevant period shall equal the sum of the original cost  
54 of all of the projects included in the qualifying electric plant placed in service during the  
55 relevant period less accumulated depreciation on such plant; and less the marginal increase  
56 in accumulated deferred income tax assets and liabilities, including deferred tax assets  
57 from net operating losses, attributable to such plant in the aggregate; and less the change  
58 in accumulated depreciation, excluding retirements, and the change in plant-related  
59 accumulated deferred income tax assets and liabilities, including deferred tax assets from  
60 net operating losses, attributable to such plant in the aggregate recorded during the  
61 relevant period arising from assets that were reflected in the electrical corporation's  
62 regulated rate base before the beginning of the relevant period.

63       (3) The electrical corporation shall perform the calculation of deferred depreciation  
64 and return under this subsection for all of the projects included in the qualifying electric  
65 plant placed in service during the relevant period and shall defer the calculated amounts  
66 monthly, with the qualifying projects to be deemed to have been placed in service on the  
67 fifteenth day of the month in which they were placed in service.

68       **5. Depreciation expense and return from the end of any relevant period to the**  
69 **effective date of rates in the general rate proceeding where deferrals related to qualifying**  
70 **electric plant placed in service during that general rate proceeding are included in the**  
71 **electrical corporation's rate base, shall also be deferred on qualifying electric plant placed**  
72 **in service during that relevant period. The depreciation expense and return deferred**  
73 **under this subsection shall also be recorded to the regulatory asset account that will be**  
74 **included in the electrical corporation's rate base in the electrical corporation's subsequent**  
75 **general rate proceeding, together with deferrals arising under subsection 3 of this section**  
76 **of depreciation expense and return for qualifying electric plant placed in service during**  
77 **the relevant period applicable to the electrical corporation's general rate proceeding.**

78       **6. In each general rate proceeding, the revenue requirement resulting from the**  
79 **inclusion of sums deferred to a regulatory asset account authorized under this section in**  
80 **rate base and the amortization of such a regulatory asset shall be allocated to each rate**  
81 **class in the same manner as the remainder of the change in the revenue requirement is**  
82 **allocated.**

83       **7. Notwithstanding the foregoing provisions of this section, the impact on the**  
84 **revenue requirement caused solely by the inclusion of the balance of the regulatory asset**  
85 **created during the most recent relevant period in rate base in any general rate proceeding**  
86 **shall not exceed the maximum revenue requirement impact percentage determined in the**  
87 **following manner: the maximum revenue requirement impact percentage shall be**  
88 **determined by multiplying three-quarters of one percent by the number of completed**  
89 **months since the date through which rate base additions were accounted for in the**  
90 **electrical corporation's most recently completed general rate proceeding, divided by**  
91 **twelve. The portion of the regulatory asset created during the most recent relevant period**  
92 **which results in an increase in the revenue requirement that exceeds the maximum revenue**  
93 **requirement impact percentage shall not be recoverable in rates.**

94       **8. Beginning February twenty-eighth of the year after the year in which this section**  
95 **becomes effective, electrical corporations that defer depreciation expense and return**  
96 **authorized under this section shall submit to the commission a five-year capital investment**  
97 **plan setting forth the general categories of capital expenditures the electrical corporation**  
98 **will pursue in furtherance of modernizing and securing its infrastructure. The plan shall**  
99 **also include a specific capital investment plan for the first year of the five-year plan**  
100 **consistent with the level of specificity the electrical corporation has historically used for**  
101 **annual capital budgeting purposes. Project specific information is not required to be**  
102 **included for the five-year period covered by the plan. No later than February twenty-eighth**  
103 **of each subsequent year during which the electrical corporation is continuing to defer**

104 depreciation and expense and return as provided for by subsection 3 of this section, the  
105 electrical corporation shall submit to the commission an updated capital investment plan  
106 for the subsequent five years, a specific capital investment plan for the subsequent calendar  
107 year, and report the capital investments for the prior calendar year. Within thirty days of  
108 the filing of any capital investment plan or annual update to an existing plan, the electrical  
109 corporation shall host a public stakeholder meeting to answer questions and receive  
110 feedback about the plan. The electrical corporation shall provide public notice of the  
111 meeting to its customers on its website, and the meeting shall be located within the electrical  
112 corporation's service territory. After feedback is received, the electrical corporation shall  
113 file a notice with the commission of any modifications to the capital investment plan it has  
114 accepted. The plan, implementation of the plan, or schedule changes from year to year shall  
115 not constitute evidence of imprudence of the capital investment plan or the investments  
116 made under such plan. The fact that the electrical corporation invests more or less than the  
117 amounts specified in its initial or updated plans shall not constitute evidence of imprudence.  
118 The submission made under this section shall be made publicly available; provided,  
119 however, that portions of the submission that contain confidential and proprietary  
120 information may be protected from public disclosure in a manner consistent with the rules  
121 or orders of the commission as applicable. Nothing in this section shall require the electrical  
122 corporation to publicly disclose confidential, proprietary, or financially sensitive  
123 information, any market sensitive information, or information that would otherwise violate  
124 rules promulgated by the Federal Energy Regulatory Commission designed to protect the  
125 integrity of wholesale power markets. The submission of a capital investment plan under  
126 this section shall not affect in any way the commission's authority with respect to the grant  
127 or denial of a certificate of convenience and necessity under section 393.170.

393.1410. 1. The provisions of section 386.020 defining words, phrases, and terms,  
2 shall apply to and determine the meaning of all such words, phrases, or terms as used in this  
3 section.

4       2. It shall be the policy of the state of Missouri for the commission to support  
5 expenditures by electrical corporations that maintain or improve the reliability, safety,  
6 security, or automation of electric infrastructure, including through the use of the latest  
7 technologies to meet the needs and expectations of customers. It shall also be the policy of  
8 the state of Missouri for the commission to approve rates designed to allow electrical  
9 corporations to recover their full cost of service and provide a reasonable opportunity to  
10 earn a fair return. In furtherance of the policies stated in this section, the commission is  
11 specifically authorized to approve rate adjustment mechanisms not otherwise specifically  
12 authorized by statute including, but not limited to, mechanisms to promote modernization

13 or replacement of an electrical corporation's infrastructure, and is also specifically  
14 authorized to approve one or more of the following tools: partially forecasted test years,  
15 true-ups of revenue requirement components, tracking mechanisms, grid modernization  
16 incentive mechanisms, interim rates, performance-based rates, decoupling, or decisional  
17 pre-approval with post construction review of construction projects. To the extent the  
18 commission's approval of a rate adjustment mechanism or other tool provided for by this  
19 section specifies a term over which the approval is to continue, the commission shall lack  
20 the authority to modify or eliminate the electrical corporation's use of the mechanism or  
21 tool during the specified term. Nothing in this section shall limit or eliminate the  
22 commission's authority existing prior to the effective date hereof.

23 3. The commission may utilize rate adjustment mechanisms not otherwise  
24 specifically authorized by statute including, but not limited to, mechanisms to promote  
25 modernization and replacement of an electrical corporation's infrastructure. The  
26 commission may also use partially forecasted test years, true-ups of revenue requirement  
27 components, tracking mechanisms, grid modernization incentive mechanisms, interim rates,  
28 performance-based rate decoupling, or decisional preapproval with post construction  
29 review of construction projects.

30 4. The public service commission is authorized to promulgate rules to implement the  
31 provisions of this section. Any rule or portion of a rule, as that term is defined in section  
32 536.010 that is created under the authority delegated in this section shall become effective  
33 only if it complies with and is subject to all of the provisions of chapter 536, and, if  
34 applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the  
35 powers vested with the general assembly pursuant to chapter 536, to review, to delay the  
36 effective date, or to disapprove and annul a rule are subsequently held unconstitutional,  
37 then the grant of rulemaking authority and any rule proposed or adopted after August 28,  
38 2017, shall be invalid and void.

393.1600. 1. As used in this section, the following terms shall mean:  
2 (1) "Electrical corporation", the same as defined in section 386.020, but shall not  
3 include an electrical corporation regulated under chapters 386 and 393 but not subject to  
4 the commission's jurisdiction over its rates, financing, accounting, or management under  
5 subsection 2 of section 393.110;

6 (2) "Processed solid biomass engineered fiber fuel", any fuel derived from raw  
7 biomass feedstock produced in this state that is changed from its original form and  
8 combined in a manufacturing process that can accommodate two or more independent raw  
9 biomass feedstocks and resulting in a solid fuel product with a heat value of at least eight  
10 thousand five hundred British Thermal Units per pound on a dry matter basis. Processed

11 solid biomass engineered fiber fuel shall not include any solid biomass fuel that is produced  
12 solely from a densification of a single raw biomass feedstock.

13 2. Any electrical corporation that incurs costs to modify such electrical corporation's  
14 owned fossil-fired generating plant located in Missouri solely to accommodate the test burn  
15 of a processed solid biomass engineered fiber fuel from Missouri-based products shall be  
16 allowed to timely reflect in its rates the costs or investments incurred or made for such  
17 modification.

18 3. Any electrical corporation that elects to test burn a processed solid biomass  
19 engineered fiber fuel in such electric utility's owned fossil-fired generating plant located in  
20 Missouri shall be allowed to timely reflect in its rates the cost of the processed solid biomass  
21 engineered fiber fuel from Missouri-based products.

22 4. The total expenditures to be reflected in the rates of an electrical corporation for  
23 evaluating the feasibility of using processed solid biomass engineered fiber fuel from  
24 Missouri-based products shall not exceed two million dollars. The total additional  
25 expenditures to be reflected in the rates of an electrical corporation for Missouri-based  
26 fossil-fired generating plant modifications to accommodate the test burn of processed solid  
27 biomass engineered fiber fuel shall not exceed ten million dollars.

393.1610. 1. The commission shall permit an electrical corporation to recover costs  
2 incurred for projects to deploy electrical generation, distribution, or transmission  
3 technology or equipment with which the electrical corporation has little or no operational  
4 experience including, but not limited to, projects involving renewable generation,  
5 microgrids, and energy storage, with recovery allowed without a demonstration by the  
6 electrical corporation that the technology or equipment represents the least cost alternative;  
7 provided, however, that any such project:

8 (1) Is designed to advance the electrical corporation's operational knowledge of  
9 deploying such technology or equipment or otherwise produces beneficial knowledge or  
10 experience;

11 (2) Is executed in a prudent manner; and

12 (3) Increases the electrical corporation's rate base by no more than one percent as  
13 of the time investments made under this section are included in rate base for ratemaking  
14 purposes.

15 2. The requirements of section 393.170 shall not apply to the construction by an  
16 electrical corporation of a renewable energy resource that has a nameplate capacity of 1  
17 megawatt or less. For purposes of this section, "electrical corporation" shall mean the same  
18 as defined in section 386.020, but shall not include an electrical corporation regulated under

19 chapters 386 and 393 but not subject to the commission's jurisdiction over its rates,  
20 financing, accounting, or management under subsection 2 of section 393.110.

393.1640. 1. Subject to the limitations provided for in subsection 5 of this section,  
2 an electrical corporation shall make available an economic development rider to customers  
3 served under its large power service rate schedule that add incremental demand of at least  
4 five hundred kilowatts after November 1, 2016, and that meet either of the following  
5 criteria:

6 (1) Demand at a single premises greater than fifteen megawatts and an annual load  
7 factor of at least fifty-five percent; or

8 (2) Aggregated large power service demands of greater than thirty megawatts at up  
9 to five separate premises served by the electrical corporation.

10  
11 The rider shall provide that the increases in electric service billing units by any such  
12 customer related to such incremental demand shall qualify for a special electric rate. The  
13 special rate shall be fifty-eight percent of the cents per kilowatt-hour realization derived  
14 from application of all rate components to the customer's load prior to the increase in  
15 electric service billing units plus ten percent of the remainder of such cents per kilowatt-  
16 hour realization and shall be applied to the electric bill related to such incremental load  
17 from the date when the meter has been permanently set until the earlier of the date that the  
18 customer's incremental load no longer exceeds the minimum incremental demand or no  
19 longer meets the fifty-five percent annual load factor, if applicable; provided, however, that  
20 the discounts shall not extend beyond the date this section expires. The incremental demand  
21 to which a discount under this subsection applies shall not receive a discount under  
22 subsection 4 of this section.

23 2. Subject to the limitations provided for in subsection 5 of this section, a large  
24 power service account that is new to the electrical corporation's system after November 1,  
25 2016, with demand greater than fifteen megawatts and an annual load factor of at least  
26 fifty-five percent shall qualify for a discount of twenty percent on all rate elements of the  
27 electric bill from the date when the meter has been permanently set until the earlier of the  
28 date that the customer's load no longer exceeds the minimum fifteen megawatts demand or  
29 no longer meets the fifty-five percent annual load factor; provided, however, that the  
30 discounts shall not extend beyond the date this section expires. A new account to which a  
31 discount under this subsection applies shall not receive a discount under subsection 4 of this  
32 section.

33 3. Subject to the limitations provided for in subsection 5 of this section, an electrical  
34 corporation shall make available an economic development rider to customers served under

35 its large power service rate schedule that added incremental demand of at least five  
36 hundred kilowatts on or prior to November 1, 2016, are being served under an existing  
37 economic development rider on the effective date of this section, and that meet either of the  
38 following criteria:

39       (1) Demand at a single premises greater than fifteen megawatts and an annual load  
40 factor of at least fifty-five percent; or

41       (2) Aggregated large power service demands of greater than thirty megawatts at up  
42 to five separate premises served by the electrical corporation.

43

44 The rider shall provide that the incremental increases in electric service billing units by any  
45 such customer related to such incremental demand taken under an existing economic  
46 development rider on the effective date of this section shall qualify for a discount of twenty  
47 percent on all rate elements of the electric bill related to such incremental load from the  
48 effective date of this section until the earlier of the date that the customer's incremental load  
49 no longer exceeds the minimum incremental demand or no longer meets the fifty-five  
50 percent annual load factor, if applicable; provided, however, that the discounts shall not  
51 extend beyond the date this section expires. The rider shall also provide that the discount  
52 provided under the existing economic development rider shall terminate effective with the  
53 effectiveness of the discount provided under this subdivision. The incremental demand to  
54 which a discount under this subsection applies shall not receive a discount under subsection  
55 4 of this section.

56       4. Subject to the limitations provided for in this subsection and subsection 5 of this  
57 section, an electrical corporation shall make available an economic retention and  
58 development rider available to customers served under its large power service rate schedule  
59 if the customer meets either of the following criteria:

60       (1) The customer has a demand on a single account greater than forty megawatts  
61 and an annual load factor of at least eighty percent; or

62       (2) The customer has an aggregated large power service demands with a service  
63 delivery voltage of thirty-four and one-half kilovolts or higher of greater than forty  
64 megawatts through seven or more separate accounts served by the electrical corporation.

65

66 The economic retention and development rider required by this subsection shall provide for  
67 a discount of fifteen percent on all rate elements of the large power service rate schedule,  
68 as those rate elements appeared on January first of the year in which the customer became  
69 eligible for the economic retention and development rider, with the discount to start on the  
70 first day of the billing cycle month following the later of the effective date of this section or

71 the date the customer became eligible and continuing, without regard to any increases that  
72 might occur in the large power service rate schedule rate elements, until the date that the  
73 customer's load or load factor no longer exceed the minimums provided for in this  
74 subsection; provided, however, that the discounts shall not extend beyond the date this  
75 section expires.

76 5. To qualify for the discounted rates provided for in this section, customers shall  
77 meet the applicable criteria at the time the meter is permanently set and annually  
78 thereafter, in the case of the discounts provided for in subsections 1, 2, or 3, and at the later  
79 of the effective date of this section or the date the customer became eligible and annually  
80 thereafter, in the case of subsection 4. In the case of the discounts provided for by  
81 subsections 1, 2, 3 or 4 of this section, whether a customer continues to meet the applicable  
82 criteria annually thereafter shall be determined at the end of each calendar year based on  
83 metering data for such calendar year. If such data indicates that the customer did not meet  
84 the criteria for such calendar year, it shall thereafter no longer qualify for the discounted  
85 rate.

393.1660. Sections 393.1400, 393.1600 and 393.1640 expire on December 31, 2027,  
2 except to the extent expressly provided.

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