

FIRST REGULAR SESSION  
HOUSE COMMITTEE SUBSTITUTE FOR

# SENATE BILL NO. 275

## 97TH GENERAL ASSEMBLY

1449H.02C

D. ADAM CRUMBLISS, Chief Clerk

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### AN ACT

To repeal section 393.1075, RSMo, and to enact in lieu thereof two new sections relating to utility regulation, with existing penalty provisions.

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

Section A. Section 393.1075, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 247.225 and 393.1075, to read as follows:

**247.225. Notwithstanding any provision of law to the contrary, a water supply district under this chapter in a county with a charter form of government and with more than three hundred thousand but fewer than four hundred fifty thousand inhabitants shall be under the auspices of the public service commission for rates, charges, or other fees.**

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

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

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

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

7       (3) "Demand-side program", any program conducted by the utility to modify the net consumption of electricity on the retail customer's side of the electric meter, including but not limited to energy efficiency measures, load management, demand response, and interruptible or curtailable load;

11       (4) "Energy efficiency", measures that reduce the amount of electricity required to achieve a given end use;

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.

13               (5) "Interruptible or curtailable rate", a rate under which a customer receives a reduced  
14 charge in exchange for agreeing to allow the utility to withdraw the supply of electricity under  
15 certain specified conditions;

16               (6) "Total resource cost test", a test that compares the sum of avoided utility costs and  
17 avoided probable environmental compliance costs to the sum of all incremental costs of end-use  
18 measures that are implemented due to the program, as defined by the commission in rules.

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

23               (1) Provide timely cost recovery for utilities;

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

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

29               4. The commission shall permit electric corporations to implement  
30 commission-approved demand-side programs proposed pursuant to this section with a goal of  
31 achieving all cost-effective demand-side savings. Recovery for such programs shall not be  
32 permitted unless the programs are approved by the commission, result in energy or demand  
33 savings and are beneficial to all customers in the customer class in which the programs are  
34 proposed, regardless of whether the programs are utilized by all customers. The commission  
35 shall consider the total resource cost test a preferred cost-effectiveness test. Programs targeted  
36 to low-income customers or general education campaigns do not need to meet a  
37 cost-effectiveness test, so long as the commission determines that the program or campaign is  
38 in the public interest. Nothing herein shall preclude the approval of demand-side programs that  
39 do not meet the test if the costs of the program above the level determined to be cost-effective  
40 are funded by the customers participating in the program or through tax or other governmental  
41 credits or incentives specifically designed for that purpose.

42               5. To comply with this section the commission may develop cost recovery mechanisms  
43 to further encourage investments in demand-side programs including, in combination and  
44 without limitation: capitalization of investments in and expenditures for demand-side programs,  
45 rate design modifications, accelerated depreciation on demand-side investments, and allowing  
46 the utility to retain a portion of the net benefits of a demand-side program for its shareholders.  
47 In setting rates the commission shall fairly apportion the costs and benefits of demand-side  
48 programs to each customer class except as provided for in subsection 6 of this section. Prior to

49 approving a rate design modification associated with demand-side cost recovery, the commission  
50 shall conclude a docket studying the effects thereof and promulgate an appropriate rule.

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

54       7. Provided that the customer has notified the electric corporation that the customer  
55 elects not to participate in demand-side measures offered by an electrical corporation, none of  
56 the costs of demand-side measures of an electric corporation offered under this section or by any  
57 other authority, and no other charges implemented in accordance with this section, shall be  
58 assigned to any account of any customer, including its affiliates and subsidiaries, meeting one  
59 or more of the following criteria:

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

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

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

67       8. Customers that have notified the electrical corporation that they do not wish to  
68 participate in demand-side programs under this section shall not subsequently be eligible to  
69 participate in demand-side programs except under guidelines established by the commission in  
70 rulemaking.

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

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

77       11. The commission shall provide oversight and may adopt rules and procedures and  
78 approve corporation-specific settlements and tariff provisions, independent evaluation of  
79 demand-side programs, as necessary, to ensure that electric corporations can achieve the goals  
80 of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is  
81 created under the authority delegated in this section shall become effective only if it complies  
82 with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028.  
83 This section and chapter 536 are nonseverable and if any of the powers vested with the general  
84 assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and

85 annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and  
86 any rule proposed or adopted after August 28, 2009, shall be invalid and void.

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

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

95       14. (1) Any customer of an electrical corporation who has received a state tax credit  
96 under sections 135.350 to 135.362 or under sections 253.545 to 253.561 shall not be eligible for  
97 participation in any demand-side program offered by an electrical corporation under this section  
98 if such program offers a monetary incentive to the customer, **except as provided in subdivision**  
**99 (4) of this subsection.**

100       (2) As a condition of participation in any demand-side program offered by an electrical  
101 corporation under this section when such program offers a monetary incentive to the customer,  
102 the commission shall develop rules that require documentation to be provided by the customer  
103 to the electrical corporation to show that the customer has not received a tax credit listed in  
104 subdivision (1) of this subsection.

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

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

110       15. The commission shall develop rules that provide for disclosure of participants in all  
111 demand-side programs offered by electrical corporations under this section when such programs  
112 provide monetary incentives to the customer. The disclosure required by this subsection may  
113 include, but not be limited to, the following: the name of the participant, or the names of the  
114 principles if for a company, the property address, and the amount of the monetary incentive  
115 received.

