

SECOND REGULAR SESSION

[PERFECTED]

HOUSE COMMITTEE SUBSTITUTE FOR

# HOUSE BILL NO. 2689

98TH GENERAL ASSEMBLY

6778H.02P

D. ADAM CRUMBLISS, Chief Clerk

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## AN ACT

To amend chapters 393 and 620, RSMo, by adding thereto three new sections relating to the state's energy policies, with an emergency clause for a certain section.

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

Section A. Chapters 393 and 620, RSMo, are amended by adding thereto three new sections, to be known as sections 393.1505, 393.1580, and 620.3150, to read as follows:

**393.1505. It reflects the policy of the state of Missouri during a time of dynamic change in the electric service industry to modernize the regulatory process for electrical corporations to more closely align the interests of electrical corporations and the customers they serve by:**

**(1) Allowing for the imposition of earnings caps, rate caps, performance standards, and other customer protections in connection with service provided by electrical corporations;**

**(2) Providing a meaningful opportunity for electrical corporations to recover on a timely basis the actual, prudently incurred costs of providing reliable electric service;**

**(3) Establishing policies that encourage investment in Missouri electrical infrastructure; and**

**(4) Providing globally competitive electric power rates for energy-intensive customers.**

**393.1580. 1. The provisions of section 386.020 defining words, phrases, and terms, shall apply to and determine the meaning of all such words, phrases, or terms as used in this section.**

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

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.

5           (1) "Aluminum smelter rate", a contractual per megawatt-hour rate consistent with  
6 this section for retail electric energy, including production, transmission, and distribution,  
7 to a point of delivery at the interconnection between the electrical corporation  
8 transmission or distribution system and an aluminum smelting facility, or the point at  
9 which the electrical corporation interconnects with a third-party retail or transmission  
10 provider serving the aluminum smelting facility, as applicable;

11           (2) "Aluminum smelting facility", a facility whose primary industry is the smelting  
12 of aluminum and primary metals and is subject to Standard Industrial Classification code  
13 3334;

14           (3) "Global average price", the global weighted average cost of electricity, inclusive  
15 of transmission costs, for aluminum smelters, excluding those located in China, for the  
16 most recent calendar year, as reported by the CRU index or its successor;

17           (4) "Standard Industrial Classification", the standard industrial classification as  
18 such classifications are defined in the 1987 edition of the Standard Industrial Classification  
19 Manual as prepared by the Executive Office of the President, Office of Management and  
20 Budget.

21           3. (1) Notwithstanding any other provision of law to the contrary, an aluminum  
22 smelting facility, and the electrical corporation providing electrical service to the aluminum  
23 smelting facility, may jointly submit an application to the commission for approval of an  
24 aluminum smelter rate. If the proposed aluminum smelter rate agreed upon by the  
25 electrical corporation and the aluminum smelting facility complies with the requirements  
26 set forth in this section, it shall be deemed a just and reasonable rate.

27           (2) Any such application shall include an executed contract between the aluminum  
28 smelting facility and the electrical corporation that sets forth the rates, duration, and terms  
29 and conditions for service to the aluminum smelting facility subject to the following  
30 requirements:

31           (a) The aluminum smelter rate shall not be seasonably variable;

32           (b) For rates effective prior to January 1, 2017, the initial aluminum smelter rate  
33 shall be set at not more than thirty-one dollars and fifty cents per megawatt hour, provided  
34 that the rate may be discounted by an amount not less than one dollar and fifty cents per  
35 megawatt-hour to the extent that the aluminum smelting facility incurs transmission or  
36 retail wheeling charges or rates assessed by a third-party service provider;

37           (c) For rates effective after December 31, 2016, the initial aluminum smelter rate  
38 shall be set at the global average price, provided that if the aluminum smelting facility  
39 incurs transmission or retail wheeling charges or rates assessed by a third party service  
40 provider, the rate shall be discounted by the lesser of:

41           **a. The transmission or retail wheeling charges or rates assessed by a third party**  
42 **service provider; or**

43           **b. One dollar and seventy-five cents per megawatt-hour;**

44           **(d) The initial rate per megawatt-hour shall increase by one percent each year, with**  
45 **the first one percent increase becoming effective with the billing cycle that starts twelve**  
46 **months after the effective date of the initial tariff; and**

47           **(e) If the duration of the aluminum smelter rate is longer than five years, beginning**  
48 **with the first billing cycle in year six after the effective date of the initial tariff and for each**  
49 **year thereafter, the rate shall be reset to the global average price. If any aluminum**  
50 **smelting facility continues to incur transmission or retail wheeling charges or rates**  
51 **assessed by a third party service provider, the aluminum smelter rate shall be discounted**  
52 **to be lower than the global average price in an amount equal to the lesser of:**

53           **a. The transmission or retail wheeling charges or rates assessed by a third party**  
54 **service provider; or**

55           **b. One dollar and seventy-five cents per megawatt-hour.**

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57 **However, in any event such rate shall not increase or decrease by more than six percent in**  
58 **any such annual adjustment.**

59           **(3) Within thirty days after filing the application, the commission shall issue an**  
60 **order directing the electrical corporation to file tariffs containing the rates, terms, and**  
61 **conditions set forth in the application, and authorizing the electrical corporation to create**  
62 **a regulatory asset for the difference between the revenues that would have been collected**  
63 **under the previously applicable rate and the newly applicable aluminum smelter rate.**  
64 **Such order shall be effective thirty days after its issuance. Recovery under this subsection**  
65 **shall begin at the time initial aluminum smelter rates become effective under this section,**  
66 **and an estimate shall be used to set initial rates in order provide for recovery during the**  
67 **first period such rates are in effect. Any remainder or over-collection shall be recovered**  
68 **or credited as determined by the commission.**

69           **4. An aluminum smelting facility shall only be eligible for the aluminum smelter**  
70 **rate established under this section if it maintains a number of full-time employees that**  
71 **equals not less than one and one-half times its megawatt demand.**

72           **5. If an aluminum smelting facility becomes ineligible for service using the**  
73 **aluminum smelter rate established under this section, it shall be served at the rate that**  
74 **would otherwise be applicable to a customer of its size and load characteristics.**

75           **6. Nothing in this section shall be construed as granting the commission jurisdiction**  
76 **over any third party transmission provider organized under chapter 394, or over any**

77 **transmission or wheeling contract to which such third party transmission provider is a**  
78 **party, and the commission's approval of any aluminum smelter rate or discount otherwise**  
79 **allowed under this section shall not constitute or be deemed to be a filed rate under the**  
80 **filed rate doctrine for purposes of any such third party transmission contract.**

81 **7. This section shall expire on December 31, 2026.**

**620.3150. 1. The comprehensive state energy plan (CSEP) implemented by the**  
2 **division of energy shall be reviewed by the division by January 1, 2017, and biennially**  
3 **thereafter, and updated if necessary, in accordance with the provisions of this section.**

4 **2. The state's CSEP shall be reviewed to ensure that it:**

5 **(1) Drives savings that benefit all customers;**

6 **(2) Encourages private investment in distributed energy solutions that will help**  
7 **customers better manage their energy bills and reduce fuel costs while ensuring fairness**  
8 **to all customers;**

9 **(3) Animates energy markets through strategies to attract private capital**  
10 **investments;**

11 **(4) Supports transportation alternatives;**

12 **(5) Enables the state's utilities to meet energy goals;**

13 **(6) Provides the state with the ability to foster its utilities' energy systems to operate**  
14 **with more efficiency and reliability and at a low cost to consumers;**

15 **(7) Enables utilities to chart a vibrant, changing future;**

16 **(8) Supports the state's efforts to foster a supply of energy to consumers that is**  
17 **abundant, reliable, and affordable; and**

18 **(9) Includes areas of potential growth or development, including forecasts of five**  
19 **and ten years for energy demand and supply; infrastructure demands; and identification**  
20 **of additional costs, risks, benefits, uncertainties, and market potential of energy supply**  
21 **resource alternatives.**

22 **3. The division of energy shall use a diverse stakeholder system or contract with a**  
23 **Missouri-based not-for-profit organization consisting of a diverse stakeholder community**  
24 **whose staff and organization have the capacity and capability to facilitate and plan the**  
25 **state's energy processes to conduct the review.**

26 **4. A report shall be issued by the division of energy along with the review required**  
27 **by the provisions of this section that shall suggest policy changes for the state that:**

28 **(1) Provide improved reliability of the energy systems within the state;**

29 **(2) Insulate consumers from volatility in market prices;**

30 **(3) Reduce the overall cost of energy in the state;**

31 **(4) Affordably minimize public health and environmental impacts; and**

32           **(5) Identify and analyze emerging trends in supply, price, demand, and technology**  
33 **as well as energy policies and programs and their contribution or hindrance to achieving**  
34 **the state’s energy planning objectives.**

Section B. Because immediate action is necessary to sustain Missouri's aluminum  
2 smelting industry, which is a vital part of Missouri's economy, and to continue providing  
3 hundreds of jobs to hardworking Missourians in an area where job availability is otherwise  
4 limited, section 393.1580 of section A of this act is deemed necessary for the immediate  
5 preservation of the public health, welfare, peace, and safety, and is hereby declared to be an  
6 emergency act within the meaning of the constitution, and section 393.1580 of section A of this  
7 act shall be in full force and effect upon its passage and approval.

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