

SECOND REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 2050
100TH GENERAL ASSEMBLY

4802H.02C

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal section 393.1075, RSMo, and to enact in lieu thereof three new sections relating to the utilities.

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

Section A. Section 393.1075, RSMo, is repealed and three new sections enacted in lieu thereof, to be known as sections 393.1075, 640.091, and 640.800, to read as follows:

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

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

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

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

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

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

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

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

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.

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 **or gas** corporations to implement commission-
30 approved demand-side programs proposed pursuant to this section with a goal of achieving all
31 cost-effective demand-side savings. Recovery for such programs shall not be permitted unless
32 the programs are approved by the commission, result in energy or demand savings and are
33 beneficial to all customers in the customer class in which the programs are proposed, regardless
34 of whether the programs are utilized by all customers. The commission shall consider the total
35 resource cost test a preferred cost-effectiveness test. Programs targeted to low-income customers
36 or general education campaigns do not need to meet a cost-effectiveness test, so long as the
37 commission determines that the program or campaign is in the public interest. Nothing herein
38 shall preclude the approval of demand-side programs that do not meet the test if the costs of the
39 program above the level determined to be cost-effective are funded by the customers
40 participating in the program or through tax or other governmental credits or incentives
41 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 **or gas** corporation that the
55 customer elects not to participate in demand-side measures offered by an electrical **or gas**
56 corporation, none of the costs of demand-side measures of an electric **or gas** corporation offered
57 under this section or by any other authority, and no other charges implemented in accordance
58 with this section, shall be assigned to any account of any customer, including its affiliates and
59 subsidiaries, meeting one 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 **gas** pipeline pumping station, regardless of size;
63 or

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

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

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

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

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

88 12. Each electric **or gas** corporation shall submit an annual report to the commission
89 describing the demand-side programs implemented by the utility in the previous year. The report

90 shall document program expenditures, including incentive payments, peak demand and energy
91 savings impacts and the techniques used to estimate those impacts, avoided costs and the
92 techniques used to estimate those costs, the estimated cost-effectiveness of the demand-side
93 programs, and the net economic benefits of the demand-side programs.

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

96 14. The commission shall develop rules that provide for disclosure of participants in all
97 demand-side programs offered by electrical corporations under this section when such programs
98 provide monetary incentives to the customer. The disclosure required by this subsection may
99 include, but not be limited to, the following: the name of the participant, or the names of the
100 principals if for a company, the property address, and the amount of the monetary incentive
101 received.

**640.091. The provisions of section 640.090 shall not apply to an implementation plan
2 developed to implement the existing-source performance standard promulgated by the
3 United States Environmental Protection Agency under 42 U.S.C. Section 7411 in the July
4 8, 2019, Federal Register.**

**640.800. 1. The comprehensive state energy plan developed by the division of
2 energy shall be reviewed by the division by January 1, 2022, and biennially thereafter, and
3 updated if necessary, utilizing requested and retained funding through the U.S.
4 Department of Energy's State Energy Program, in accordance with the provisions of this
5 section.**

6 2. The state's comprehensive state energy plan shall be reviewed to ensure that it:

7 (1) Is consistent with Article I, Section 2 of the Missouri Constitution;

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

10 (3) Develops free market strategies to attract private capital investment;

11 (4) Identifies and evaluates transportation alternatives;

**12 (5) Creates an uncumbersome regulatory environment that allows the state's energy
13 utilities to chart a vibrant changing future by operating with greater efficiency, consumer
14 flexibility, and reliability, and that supports pricing that is predictable and sustainable;**

**15 (6) Supports public and private efforts to foster a supply of energy to consumers
16 that is abundant, reliable, and cost efficient; and**

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

21 **3. The division of energy, either directly or through contracting with an**
22 **organization that is qualified to adequately meet the aforementioned goals, shall use a**
23 **diverse stakeholder system through both online engagement and in-person meetings**
24 **throughout the state to conduct the review.**

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

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

28 **(2) Insulate customers from volatility in market prices;**

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

30 **(4) Reasonably address public health and environmental impacts;**

31 **(5) Identify and analyze emerging trends in supply, price, demand, and technology,**
32 **as well as energy policies and programs that impact the state; and**

33 **(6) Protect against adversarial threats to cybersecurity, grid security, and the**
34 **physical integrity of energy infrastructure.**

35

36 **The division of energy shall submit the report to the speaker of the house of representatives**
37 **and the president pro tempore of the senate.**

✓