

SECOND REGULAR SESSION

[CORRECTED]

HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NO. 2265

99TH GENERAL ASSEMBLY

6103H.04C

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 386.266, 386.390, and 393.170, RSMo, and to enact in lieu thereof twelve new sections relating to public utilities, with an emergency clause for a certain section.

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

Section A. Sections 386.266, 386.390, and 393.170, RSMo, are repealed and twelve new sections enacted in lieu thereof, to be known as sections 386.266, 386.390, 393.137, 393.170, 393.1100, 393.1400, 393.1610, 393.1640, 393.1650, 393.1655, 393.1670, and 1, to read as follows:

386.266. 1. Subject to the requirements of this section, any electrical corporation may make an application to the commission to approve rate schedules authorizing an interim energy charge, or periodic rate adjustments outside of general rate proceedings to reflect increases and decreases in its prudently incurred fuel and purchased-power costs, including transportation. The commission may, in accordance with existing law, include in such rate schedules features designed to provide the electrical corporation with incentives to improve the efficiency and cost-effectiveness of its fuel and purchased-power procurement activities.

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

24 3. Subject to the requirements of this section, any gas **or electrical** corporation may
25 make an application to the commission to approve rate schedules authorizing periodic rate
26 adjustments outside of general rate proceedings to ~~[reflect the nongas revenue effects]~~ **adjust**
27 **rates of customers in eligible customer classes to account for the impact on utility revenues**
28 of increases or decreases in residential and commercial customer usage due to variations in either
29 weather, conservation, or both. **No electrical corporation shall make an application to the**
30 **commission under this subsection if such corporation has provided notice to the**
31 **commission under subsection 5 of section 393.1400. As used in this subsection, "revenues"**
32 **means the revenues recovered through base rates and does not include revenues collected**
33 **through a rate adjustment mechanism authorized by this section or any other provisions**
34 **of law. This subsection shall apply to electrical corporations beginning January 1, 2019,**
35 **and shall expire for electrical corporations on January 1, 2029.**

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

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

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

47 (3) In the case of an adjustment mechanism submitted under subsections 1 and 2 of this
48 section, includes provisions requiring that the utility file a general rate case with the effective
49 date of new rates to be no later than four years after the effective date of the commission order
50 implementing the adjustment mechanism. However, with respect to each mechanism, the
51 four-year period shall not include any periods in which the utility is prohibited from collecting

52 any charges under the adjustment mechanism, or any period for which charges collected under
53 the adjustment mechanism must be fully refunded. In the event a court determines that the
54 adjustment mechanism is unlawful and all moneys collected thereunder are fully refunded, the
55 utility shall be relieved of any obligation under that adjustment mechanism to file a rate case;

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

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

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

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

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

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

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

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

85 12. ~~The [provisions of this section shall take effect on January 1, 2006, and the]~~
86 commission shall have previously promulgated rules to implement the application process for

87 any rate adjustment mechanism under this section prior to the commission issuing an order for
88 any **such** rate adjustment.

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

92 14. **Each electrical corporation operating under a mechanism proposed and**
93 **approved under subsection 3 of this section shall quarterly file a surveillance monitoring**
94 **report, consisting of five parts. Each part, except the rate base quantifications report, shall**
95 **contain information for the last twelve-month period and the last quarter data for total**
96 **company electric operations and Missouri jurisdictional operations. Rate base**
97 **quantifications shall contain only information for the ending date of the period being**
98 **reported.**

99 (1) **Part one of the surveillance monitoring report shall be the rate base**
100 **quantifications report. The quantification of rate base items in part one shall be consistent**
101 **with the methods or procedures used in the most recent rate proceeding unless otherwise**
102 **specified. The report shall consist of specific rate base quantifications of:**

- 103 (a) **Plant in service;**
- 104 (b) **Reserve for depreciation;**
- 105 (c) **Materials and supplies;**
- 106 (d) **Cash working capital;**
- 107 (e) **Fuel inventory, if applicable;**
- 108 (f) **Prepayments;**
- 109 (g) **Other regulatory assets;**
- 110 (h) **Customer advances;**
- 111 (i) **Customer deposits;**
- 112 (j) **Accumulated deferred income taxes;**
- 113 (k) **Any other item included in the electrical corporation's rate base in its most**
114 **recent rate proceeding;**
- 115 (l) **Net operating income from part three; and**
- 116 (m) **Calculation of the overall return on rate base.**

117 (2) **Part two of the surveillance monitoring report shall be the capitalization**
118 **quantifications report, which shall consist of specific capitalization quantifications of:**

- 119 (a) **Common stock equity (net);**
- 120 (b) **Preferred stock, par or stated value outstanding;**
- 121 (c) **Long-term debt, including current maturities;**
- 122 (d) **Short-term debt; and**

- 123 (e) **Weighted cost of capital, including component costs.**
- 124 (3) **Part three of the surveillance monitoring report shall be the income statement,**
- 125 **which shall consist of an income statement containing specific quantification of:**
- 126 (a) **Operating revenues to include sales to industrial, commercial, and residential**
- 127 **customers; sales for resale; and other components of total operating revenues;**
- 128 (b) **Operating and maintenance expenses for fuel expense, production expenses,**
- 129 **purchased power energy, and capacity, if applicable;**
- 130 (c) **Transmission expenses;**
- 131 (d) **Distribution expenses;**
- 132 (e) **Customer accounts expenses;**
- 133 (f) **Customer service and information expenses;**
- 134 (g) **Sales expenses;**
- 135 (h) **Administrative and general expenses;**
- 136 (i) **Depreciation, amortization, and decommissioning expense;**
- 137 (j) **Taxes other than income taxes;**
- 138 (k) **Income taxes; and**
- 139 (l) **Quantification of heating degree and cooling degree days, actual and normal.**
- 140 (4) **Part four of the surveillance monitoring report shall be the jurisdictional**
- 141 **allocation factor report, which shall consist of a listing of jurisdictional allocation factors**
- 142 **for the rate base, capitalization quantification reports, and income statement.**
- 143 (5) **Part five of the surveillance monitoring report shall be the financial data notes,**
- 144 **which shall consist of notes to financial data including, but not limited to:**
- 145 (a) **Out of period adjustments;**
- 146 (b) **Specific quantification of material variances between actual and budget**
- 147 **financial performance;**
- 148 (c) **Material variances between current twelve-month period and prior twelve-**
- 149 **month period revenue;**
- 150 (d) **Expense level of items ordered by the commission to be tracked under the order**
- 151 **establishing the rate adjustment mechanism;**
- 152 (e) **Budgeted capital projects; and**
- 153 (f) **Events that materially affect debt or equity surveillance components.**
- 154 (6) **This subsection shall expire on January 1, 2029.**

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**, [ø] of any rule **promulgated by the commission, of any utility**
9 **tariff, or of any** order or decision of the commission; provided, that no complaint shall be
10 entertained by the commission, except upon its own motion, as to the reasonableness of any rates
11 or charges of any gas, electrical, water, sewer, or telephone corporation, unless the same be
12 signed by the public counsel or the mayor or the president or chairman of the board of aldermen
13 or a majority of the council, commission or other legislative body of any city, town, village or
14 county, within which the alleged violation occurred, or not less than twenty-five consumers or
15 purchasers, or prospective consumers or purchasers, of such gas, electricity, water, sewer or
16 telephone service.

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

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

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

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

393.137. 1. This section applies to electrical corporations that do not have a general
2 **rate proceeding pending before the commission as of the later of February 1, 2018, or the**
3 **effective date of this section.**

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

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

6 **(2) "Electrical corporation", the same as defined in section 386.020, but shall not**
7 **include an electrical corporation as described in subsection 2 of section 393.110.**

8 **3. If the rates of any electrical corporation to which this section applies have not**
9 **already been adjusted to reflect the effects of the federal 2017 Tax Cut and Jobs Act, Pub.**
10 **L. No. 115-97, 94 Stat. 2390, the commission shall have one-time authority that shall be**
11 **exercised within ninety days of the effective date of this section to adjust such electrical**
12 **corporation's rates prospectively so that the income tax component of the revenue**
13 **requirement used to set such an electrical corporation's rates is based upon the provisions**
14 **of such federal act without considering any other factor as otherwise required by section**
15 **393.270. The commission shall also require electrical corporations to which this section**
16 **applies, as provided for under subsection 1 of this section, to defer to a regulatory asset the**
17 **financial impact of such federal act on the electrical corporation for the period of January**
18 **1, 2018, through the date the electrical corporation's rates are adjusted on a one-time basis**
19 **as provided for in the immediately preceding sentence. The amounts deferred under this**
20 **subsection shall be included in the revenue requirement used to set the electrical**
21 **corporation's rates in its subsequent general rate proceeding through an amortization over**
22 **a period determined by the commission.**

23 **4. Upon good cause shown by the electrical corporation, the commission may, as**
24 **an alternative to requiring a one-time rate change and deferral under subsection 2 of this**
25 **section, allow a deferral, in whole or in part, of such federal act's financial impacts to a**
26 **regulatory asset starting January 1, 2018, through the effective date of new rates in such**
27 **electrical corporation's next general rate proceeding. The deferred amounts shall be**
28 **included in the revenue requirement used to set the electrical corporation's rates in its**
29 **subsequent general rate proceeding through an amortization over a period determined by**
30 **the commission.**

31 **5. Notwithstanding subsections 3 and 4 of this section, if any electrical corporation**
32 **with more than one million Missouri electric customers provides notice to the commission**
33 **under subsection 5 of section 393.1400, then the commission shall adjust such electrical**
34 **corporation's rates prospectively so that the income tax component of the revenue**
35 **requirement used to set such an electrical corporation's rates is based upon the provisions**
36 **of the federal 2017 Tax Cut and Jobs Act, Pub. L. No. 115-97, 94 Stat. 2390 without**
37 **considering any other factor as otherwise required by section 393.270.**

393.170. 1. No gas corporation, electrical corporation, water corporation or sewer
2 corporation shall begin construction of a gas plant, electric plant, water system or sewer system,
3 **other than an energy generation unit that has a capacity of one megawatt or less,** without
4 first having obtained the permission and approval of the commission.

5 2. No such corporation shall exercise any right or privilege under any franchise hereafter
6 granted, or under any franchise heretofore granted but not heretofore actually exercised, or the

7 exercise of which shall have been suspended for more than one year, without first having
8 obtained the permission and approval of the commission. Before such certificate shall be issued
9 a certified copy of the charter of such corporation shall be filed in the office of the commission,
10 together with a verified statement of the president and secretary of the corporation, showing that
11 it has received the required consent of the proper municipal authorities.

12 3. The commission shall have the power to grant the permission and approval herein
13 specified whenever it shall after due hearing determine that such construction or such exercise
14 of the right, privilege or franchise is necessary or convenient for the public service. The
15 commission may by its order impose such condition or conditions as it may deem reasonable and
16 necessary. Unless exercised within a period of two years from the grant thereof, authority
17 conferred by such certificate of convenience and necessity issued by the commission shall be null
18 and void.

393.1100. 1. For purposes of this section, the following terms mean:

2 (1) "Advanced meter", a meter or metering device system that is owned or leased
3 by a utility or its agent and that meets one or more of the following requirements:

4 (a) Measures, records, or sends a customer's utility usage or other data by use of
5 radio waves or broadband over power lines;

6 (b) Allows for two-way communication between the meter and the utility or its
7 agent; or

8 (c) Allows for a utility or its agent to control a customer's thermostat, appliance,
9 or service;

10 (2) "Traditional meter", an analog or similar meter that is unable to transmit usage
11 information and is only intended to be read by an individual through a visual display. A
12 traditional meter is not designed to be and is not capable of transmitting usage data by
13 using radio waves or broadband over power lines, allowing two-way communication
14 between the meter and the utility or its agents, or allowing a utility or its agents to control
15 a customer's thermostat, appliance, or service. A traditional meter does not include an
16 advanced meter that has certain functionality turned off or deactivated;

17 2. Electrical corporations shall honor a residential customer's option of refusing
18 the installation of an advanced meter and shall remove an advanced meter upon a
19 customer's request, provided that no electrical corporation shall be required to honor such
20 option of refusal or removal requests for more than two percent of the electrical
21 corporation's residential customers in the state. Such option for refusal or removal
22 requests shall be honored by an electrical corporation on an unreserved first-come, first-
23 serve basis.

24 **3. An electrical corporation may charge a one-time fee, not exceeding fifty dollars,**
25 **to remove an advanced meter. An electrical corporation may charge an additional five**
26 **dollar per month fee and require a residential customer to report their traditional meter's**
27 **readings, in lieu of using an advanced meter.**

28 **4. If a residential customer has exercised the option of refusing the installation of**
29 **an advanced meter or has had an advanced meter removed under this section, then no data**
30 **on a customer's energy usage shall be collected by an electrical corporation other than**
31 **monthly energy usage.**

393.1400. 1. For purposes of this section, the following terms shall mean:

- 2 **(1) "Commission", the public service commission;**
3 **(2) "Electrical corporation", the same as defined in section 386.020, but shall not**
4 **include an electrical corporation as described in subsection 2 of section 393.110;**
5 **(3) "Qualifying electric plant", all rate base additions, except rate base additions**
6 **for new coal-fired generating units, new nuclear generating units, new natural gas units,**
7 **or rate base additions that increase revenues by allowing service to new customer premises;**
8 **(4) "Rate base cutoff date", the date rate base additions are accounted for in a**
9 **general rate proceeding. In the absence of a commission order that specifies the rate base**
10 **cutoff date, such date as reflected in any jointly proposed procedural schedule submitted**
11 **by the parties in the applicable general rate proceeding, or as otherwise agreed to by such**
12 **parties, shall be used;**
13 **(5) "Weighted average cost of capital", the return on rate base used to determine**
14 **the revenue requirement in the electrical corporation's most recently completed general**
15 **rate proceeding; provided, that in the absence of a commission determination of the return**
16 **on rate base within the three-year period prior to the effective date of this section, the**
17 **weighted average cost of capital shall be determined using the electrical corporation's**
18 **actual capital structure as of December 31, 2017, excluding short-term debt, the electrical**
19 **corporation's actual cost of long-term debt and preferred stock as of December 31, 2017,**
20 **and a cost of common equity of nine and one-half percent.**

21 **2. (1) Notwithstanding any other provision of chapter 393 to the contrary,**
22 **electrical corporations shall defer to a regulatory asset one hundred percent of all**
23 **depreciation expense and return associated with half of all qualifying electric plant**
24 **recorded to plant-in-service on the utility's books as of the effective date of this section, and**
25 **one hundred percent of all depreciation expense and return associated with qualifying**
26 **electric plant recorded to plant-in-service on the utility's books after the effective date of**
27 **this section if the electrical corporation has made the election provided for by subsection**
28 **5 of this section by that date, or on the date such election is made if the election is made**

29 after the effective date of this section. In each general rate proceeding concluded after the
30 effective date of this section, the balance of the regulatory asset as of the rate base cutoff
31 date shall be included in the electrical corporation's rate base without any offset, reduction,
32 or adjustment based upon consideration of any other factor, other than as provided for in
33 subdivision (2) of this subsection, with the regulatory asset balance arising from deferrals
34 associated with qualifying electric plant placed in service after the rate base cutoff date to
35 be included in rate base in the next general rate proceeding. The expiration of this section
36 shall not affect the continued inclusion in rate base and amortization of regulatory asset
37 balances that arose under this section prior to such expiration.

38 (2) The regulatory asset balances arising under this section shall be adjusted to
39 reflect any prudent disallowances ordered by the commission. The provisions of this
40 section shall not be construed to affect existing law respecting the burdens of production
41 and persuasion in general rate proceedings for rate base additions.

42 (3) Parts of regulatory asset balances created under this section that are not yet
43 being recovered through rates shall include carrying costs at the electrical corporation's
44 weighted average cost of capital plus applicable federal, state, and local income or excise
45 taxes. Regulatory asset balances arising under this section and included in rate base shall
46 be recovered in rates through a twenty-year amortization beginning on the date new rates
47 reflecting such amortization take effect.

48 3. (1) Depreciation expense deferred under this section shall account for all
49 qualifying electric plant placed into service less retirements of plant replaced by such
50 qualifying electric plant.

51 (2) Return deferred under this section shall be determined using the weighted
52 average cost of capital applied to the change in plant-related rate base caused by the
53 qualifying electric plant plus applicable federal, state, and local income or excise taxes. In
54 determining the return deferred, the electrical corporation shall account for changes in all
55 plant-related accumulated deferred income taxes and changes in accumulated depreciation,
56 excluding retirements.

57 4. Beginning February 28, 2019, and by each February twenty-eighth thereafter,
58 while the electrical corporation is allowed to make the deferrals provided for by subsection
59 2 of this section, electrical corporations that defer depreciation expense and return
60 authorized under this section shall submit to the commission a five-year capital investment
61 plan setting forth the general categories of capital expenditures the electrical corporation
62 will pursue in furtherance of replacing, modernizing, and securing its infrastructure. The
63 plan shall also include a specific capital investment plan for the first year of the five-year
64 plan consistent with the level of specificity used for annual capital budgeting purposes. For

65 each of the first five years that an electrical corporation is allowed to make the deferrals
66 provided for by subsection 2 of this section, the purchase and installation of smart meters
67 shall constitute no more than six percent of the electrical corporation's total capital
68 expenditures during any given year under the corporation's specific capital investment
69 plan. At least twenty-five percent of the cost of each year's capital investment plan shall
70 be comprised of grid modernization projects including, but not limited to:

71 (1) Increased use of digital information and control technology to improve
72 reliability, security, and efficiency of the electric grid;

73 (2) Dynamic optimization of grid operations and resources, with full cybersecurity;

74 (3) Deployment and integration of distributed resources and generation, including
75 renewable resources;

76 (4) Development and incorporation of demand response, demand-side resources,
77 and energy-efficiency resources;

78 (5) Deployment of "smart" technologies (real-time, automated, interactive
79 technologies that optimize the physical operation of appliances and consumer devices) for
80 metering, communications, concerning grid operations and status, and distribution
81 automation;

82 (6) Integration of "smart" appliances and devices;

83 (7) Deployment and integration of advanced electricity storage and peak-shaving
84 technologies, including plug-in electric and hybrid electric vehicles, and thermal storage
85 air conditioning;

86 (8) Provision of timely information and control options to consumer;

87 (9) Development of standards for communication and interoperability of appliances
88 and equipment connected to the electric grid, including the infrastructure serving the grid;
89 and

90 (10) Identification and lowering of unreasonable or unnecessary barriers to
91 adoption of smart grid technologies, practices, and services.

92

93 Project specific information need not be included for the five-year period covered by the
94 plan. Within thirty days of the filing of any capital investment plan or annual update to
95 an existing plan, the electrical corporation shall host a public stakeholder meeting to
96 answer questions and receive feedback about the plan. After feedback is received, the
97 electrical corporation shall file a notice with the commission of any modifications to the
98 capital investment plan it has accepted. Changes to the plan, its implementation, or the
99 level of investments made shall not constitute evidence of imprudence of the investments
100 made under such plan. The submission of a capital investment plan under this section

101 shall not affect in any way the commission's authority with respect to the grant or denial
102 of a certificate of convenience and necessity under section 393.170. By February twenty-
103 eighth following each year in which the electrical corporation submits a capital investment
104 plan, the electrical corporation shall submit a report to the commission detailing actual
105 capital investments made the previous year.

106 5. This section shall only apply to any electrical corporation that has filed a notice
107 with the commission of the electrical corporation's election to make the deferrals for which
108 this section provides. No electrical corporation shall file a notice with the commission
109 under this subsection if such corporation has made an application under subsection 3 of
110 section 386.266 and such application has been approved. An electrical corporation's
111 election shall allow it to make the deferrals provided for by subsection 2 of this section
112 until December 31, 2023, unless the electrical corporation requests and the commission
113 approves the continuation of such deferrals beyond that date and approves continuation
114 of the discounts authorized by section 393.1640 beyond that date as hereinafter provided.
115 An electrical corporation that wishes to continue to make the deferrals provided for by
116 subsection 2 of this section from January 1, 2024, through December 31, 2028, shall obtain
117 the commission's approval to do so, shall be subject to the compound annual growth rate
118 limitations set forth under section 393.1655, and shall also obtain the commission's
119 approval to continue to provide the discounts authorized by section 393.1640 in a
120 commission order issued on or before December 31, 2023. The commission shall have the
121 authority to grant or deny such approval based upon the commission's evaluation of the
122 costs and benefits of such continuation to electrical corporations and consumers, but shall
123 not be authorized to condition such approval or otherwise modify the deferrals authorized
124 by subsection 2 of this section, or the discounts authorized by section 393.1640. In deciding
125 whether to extend the program for an additional five years, the commission shall develop
126 an objective analytical framework to determine whether there is a continuing need. The
127 commission shall make a finding about whether there is a continuing need after a hearing.
128 Failure to obtain such commission approval shall not affect deferrals made through
129 December 31, 2023, or the regulatory and ratemaking treatment of the regulatory assets
130 arising from such deferrals as provided for by this section.

131 6. This section shall expire on December 31, 2028, except that the amortization of
132 the regulatory asset balances arising under this section shall continue to be reflected in the
133 electrical corporation's rates, and remaining regulatory asset balances shall be included
134 in the electrical corporation's rate base consistent with the ratemaking treatment and
135 amortization previously approved by the commission pursuant to this section.

393.1610. 1. The commission may approve investments by an electrical corporation in small scale or pilot innovative technology projects including, but not limited to, renewable generation, micro grids, or energy storage if the small scale or pilot project is designed to advance the electrical corporation's operational knowledge of deploying such technologies, including to gain operating efficiencies that result in customer savings and benefits as the technology is scaled across the grid or network.

2. For purposes of this section, "electrical corporation" and "commission" shall mean the same as defined in section 386.020, but an "electrical corporation" shall not include an electrical corporation as described in subsection 2 of section 393.110.

393.1640. 1. Subject to the limitations provided for in subsection 2 of this section, and upon proper application by an eligible customer prior to public announcement of a growth project, a new or existing account meeting the following criteria shall be considered for qualification for the discount set forth in this subsection if:

(1) The customer adds incremental load, net of any offsetting load reductions due to the termination of other accounts of the customer or an affiliate of the customer within twelve months prior to the commencement of service to the new load, with average monthly demand that is reasonably projected to be at least three hundred kilowatts with a load factor of at least fifty-five percent within two years after the date the application is submitted;

(2) The customer receives local, regional, or state economic development incentives in conjunction with the incremental load; and

(3) The customer meets the criteria set forth in the electrical corporation's economic development rider tariff sheet, as approved by the commission, that are not inconsistent with the provisions of this subsection.

The discount shall be a percentage applied to all base rate components of the bill. The percentage shall be fixed for each year of service under the discount for a period of up to five years. Subject to the remaining provisions of this subsection, the average of the annual discount percentages shall equal forty percent and shall not be less than thirty percent nor more than fifty percent in any year. The discount shall be applied to such incremental load from the date when the meter has been permanently set until the date that such incremental load no longer meets the criteria required to qualify for the discount, as determined under the provisions of subsection 2 of this section. An eligible customer shall also receive a ten percent discount of all base rate components of the bill applied to such incremental load for one year after the initial discount period ends if the electrical corporation determines that the customer is taking service from an underutilized circuit.

28 In no event shall a customer receive a discount under this subsection after the date this
29 section expires. The electrical corporation may include in its tariff additional or
30 alternative terms and conditions to a customer's utilization of the discount, subject to
31 approval of such terms and conditions by the commission. The customer, on forms
32 supplied by the electrical corporation, shall apply for the discount provided for by this
33 subsection at least ninety days prior to the date the customer requests that the incremental
34 demand receive the discounts provided for by this subsection. If the incremental demand
35 is not separately metered, the electrical corporation's determination of the incremental
36 demand shall control. Notwithstanding the foregoing provisions of this subsection, the
37 cents per kilowatt-hour realization resulting from application of any such discounted rate
38 as calculated shall be higher than the electrical corporation's variable cost to serve such
39 accounts in aggregate and the discounted rate also shall make a positive contribution to
40 fixed costs associated with such service. If in a subsequent general rate proceeding the
41 commission determines that application of such discounted rate is not adequate to cover
42 the electrical corporation's variable cost to serve such accounts and provide a positive
43 contribution to fixed costs, then the commission shall increase the rate prospectively to the
44 extent necessary to do so.

45 2. In each general rate proceeding concluded after the effective date of this section,
46 the reduced level of revenues arising from the application of discounted rates provided for
47 by subsection 1 of this section shall be allocated to all the electrical corporation's customer
48 classes, including the classes with customers that qualify for discounts under this section.
49 This increase shall be implemented through the application of a uniform percentage
50 adjustment to the revenue requirement responsibility of all customer classes. To qualify
51 for the discounted rates provided for in this section, if incremental load is separately
52 metered, customers shall meet the applicable criteria within twenty-four months after the
53 date the meter is permanently set based on metering data for calendar months thirteen
54 through twenty-four and annually thereafter. If such data indicates that the customer did
55 not meet the criteria for any applicable twelve-month period, it shall thereafter no longer
56 qualify for the discounted rate. The provisions of this section do not supersede or limit the
57 ability of an electrical corporation to continue to utilize economic development or retention
58 tariffs previously approved by the commission that are in effect on the effective date of this
59 section. If, however, a customer is receiving any economic development or retention-
60 related discounts as of the date it would otherwise qualify for a discount provided for by
61 this section, the customer shall agree to relinquish the prior discount concurrent with the
62 date it begins to receive a discount under this section; otherwise, the customer shall not be
63 eligible to receive any discount under this section. Customer demand existing at the time

64 the customer begins to receive discounted rates under this section shall not constitute
65 incremental demand. The discounted rates provided for by this section apply only to base
66 rate components, with the charges or credits arising from any rate adjustment mechanism
67 authorized by law to be applied to customers qualifying for discounted rates under this
68 section in the same manner as such rate adjustments would apply in the absence of this
69 section.

70 3. For purposes of this section, "electrical corporation" shall mean the same as
71 defined in section 386.020, but shall not include an electrical corporation as described in
72 subsection 2 of section 393.110.

73 4. This section shall expire on December 31, 2028, provided that unless the
74 electrical corporation has timely obtained the order provided for by subsection 5 of section
75 393.1400, the electrical corporation's customers shall, after December 31, 2023, no longer
76 receive the discounts provided under this section.

393.1650. 1. For purposes of this section, the following terms shall mean:

2 (1) "Commission", the Missouri public service commission established under
3 section 386.040;

4 (2) "Electrical corporation", a corporation with more than one million Missouri
5 retail electric customers in the year in which this section becomes effective and that
6 otherwise meets the definition of "electrical corporation" in section 386.020.

7 2. Electrical corporations shall develop a qualification process and make such
8 process open to all contractors seeking to provide construction and construction-related
9 services for projects on the electrical corporation's distribution system. Contractors shall
10 have the opportunity to register on the electrical corporation's vendor registration site and
11 be evaluated for bid opportunities. Under the qualification process, electrical corporations
12 may specify eligibility requirements typically accepted by the industry, including but not
13 limited to, experience, performance criteria, safety policies, and insurance requirements
14 to be met by any contractor seeking to participate in competitive bidding to provide
15 construction and construction-related services for distribution system projects, and the
16 electrical corporation shall not weight any contractor favorably or unfavorably due to
17 affiliation with a labor organization or union, except if the work is being performed
18 pursuant to a union-only project labor agreement which requires that participating
19 contractors use union represented labor. Contractors that meet the eligibility
20 requirements set by electrical corporations shall be eligible to participate in the competitive
21 bidding process for providing construction and construction-related services for
22 distribution system projects, and the contractor making the lowest and best bid shall be
23 awarded such contract.

24 **3. Within thirty days after the effective date of this section, electrical corporations**
25 **shall file a verified statement with the commission confirming that they have established**
26 **a qualification process for the competitive bidding of construction and construction-related**
27 **services for distribution system projects, and that such process conforms with the**
28 **requirements of this section. The commission shall have the authority to verify the**
29 **statement to ensure compliance with this section. Whenever the electrical corporation files**
30 **a general rate proceeding, it shall submit concurrently with its submission of the rate**
31 **schedules that initiate such general rate proceeding a verified statement confirming that**
32 **it is using the qualification process for the competitive bidding of construction and**
33 **construction-related services for distribution system projects required by this section for**
34 **no less than ten percent of the combined external installation expenditures made by the**
35 **electrical corporation's operating units in Missouri for construction and construction-**
36 **related services for distribution system projects, and that such process conforms with the**
37 **requirements set forth in this section to ensure compliance with this subsection.**

38 **4. Nothing in this section shall be construed as requiring any electrical corporation**
39 **to use a qualified contractor or competitive bidding process in the case of an emergency**
40 **project, or to terminate any existing contract with a contractor prior to its expiration,**
41 **provided that the use of any pre-existing contract for construction or construction-related**
42 **services for distribution system projects shall not qualify as fulfilling the ten percent**
43 **requirement set forth in subsection 3 of this section. For contractors not qualifying**
44 **through the competitive bid process, the electrical corporation, upon request from the**
45 **contractor, shall provide information from the process in which the contractor can be**
46 **informed as to how to be better positioned to qualify for such bid opportunities in the**
47 **future.**

48 **5. By December 31, 2020, and annually thereafter, the commission shall submit a**
49 **report to the general assembly on the effects of this section, including electrical corporation**
50 **compliance, potential legislative action regarding this section, the costs of constructing**
51 **distribution system projects prior to the implementation of this section compared to after**
52 **the implementation of this section, and any other information regarding the processes**
53 **established under this section that the commission deems necessary.**

393.1655. 1. This section applies to an electrical corporation that has elected to
2 **exercise any option under section 393.1400 and that has more than two hundred thousand**
3 **Missouri retail customers in the year in which this section becomes effective, and shall**
4 **continue to apply to such electrical corporation until December 31, 2023, if the commission**
5 **has not issued an order approving continuation of the deferrals authorized by subsection**
6 **2 of section 393.1400, and continuation of the discounts authorized by section 393.1640 as**

7 authorized by subsection 5 of section 393.1400 with respect to the electrical corporation,
8 or until December 31, 2028, if the commission has issued such an order with respect to the
9 electrical corporation.

10 2. Notwithstanding any other provision of law and except as otherwise provided for
11 by this section, an electrical corporation's base rates shall be held constant for a period
12 starting on the date new base rates were established in the electrical corporation's last
13 general rate proceeding concluded prior to the date the electrical corporation gave notice
14 under subsection 5 of section 393.1400 and ending on the third anniversary of that date,
15 unless a force majeure event as determined by the commission occurs. Whether a force
16 majeure event has occurred shall be subject to commission review and approval in a
17 general rate proceeding, and shall not preclude the commission from reviewing the
18 prudence of any revenue reductions or costs incurred during any proceeding to set rates.
19 This subsection shall not affect the electrical corporation's ability to adjust its nonbase
20 rates during the three-year period provided for in this subsection as authorized by its
21 commission-approved rate adjustment mechanisms arising under sections 386.266,
22 393.1030, or 393.1075, or as authorized by any other rate adjustment mechanism
23 authorized by law.

24 3. This subsection shall apply to electrical corporations that have a general rate
25 proceeding pending before the commission as of the later of February 1, 2018, or the
26 effective date of this section. If the difference between (a) the electrical corporation's
27 average overall rate at any point in time while this section applies to the electrical
28 corporation and (b) the electrical corporation's average overall rate as of the date newbase
29 rates are set in the electrical corporation's most recent general rate proceeding concluded
30 prior to the date the electrical corporation gave notice under section 393.1400 reflects a
31 compound annual growth rate of more than three percent, the electrical corporation shall
32 not recover any amount in excess of such three percent as a performance penalty.

33 4. This section shall apply to electrical corporations that do not have a general rate
34 proceeding pending before the commission as of the later of February 1, 2018, or the
35 effective date of this section. If the difference between (a) the electrical corporation's
36 average overall rate at any point in time while this section applies to the electrical
37 corporation and (b) the average of (i) the electrical corporation's average overall rate as
38 of the date new base rates are set in the electrical corporation's most recent general rate
39 proceeding concluded prior to the date the electrical corporation gave notice under section
40 393.1400 and (ii) the electrical corporation's average overall rate set under section 393.137
41 reflects a compound annual growth rate of more than two and eighty-five hundredths

42 percent, the electrical corporation shall not recover any amount in excess of such two and
43 eighty-five hundredths percent as a performance penalty.

44 5. If a change in any rates charged under a rate adjustment mechanism approved
45 by the commission under sections 386.266 and 393.1030 would cause an electrical
46 corporation's average overall rate to exceed the compound annual growth rate limitation
47 set forth in subsection 3 or 4 of this section, the electrical corporation shall reduce the rates
48 charged under that rate adjustment mechanism in an amount sufficient to ensure that the
49 compound annual growth rate limitation set forth in subsection 3 or 4 of this section is not
50 exceeded due to the application of the rate charged under such mechanism and the
51 performance penalties under such subsections are not triggered. Sums not recovered
52 under any such mechanism because of any reduction in rates under such a mechanism
53 pursuant to this subsection shall be deferred to and included in the regulatory asset arising
54 under section 393.1400 or, if applicable, under the regulatory and ratemaking treatment
55 ordered by the commission under section 393.1400, and recovered through an amortization
56 in base rates in the same manner as deferrals under that section or order are recovered in
57 base rates.

58 6. If the difference between (a) the electrical corporation's class average overall rate
59 at any point in time while this section applies to the electrical corporation and (b) the
60 electrical corporation's class average overall rate as of the date rates are set in the electrical
61 corporation's most recent general rate proceeding concluded prior to the date the electrical
62 corporation gave notice under subsection 5 of section 393.1400 reflects a compound annual
63 growth rate of more than two percent for the large power service rate class, the class
64 average overall rate shall increase by an amount so that the increase shall equal a
65 compound annual growth rate of two percent over such period for such large power service
66 rate class, with the reduced revenues arising from limiting the large power service class
67 average overall rate increase to two percent to be allocated to all the electrical
68 corporation's other customer classes through the application of a uniform percentage
69 adjustment to the revenue requirement responsibility of all the other customer classes.

70 7. For purposes of this section, the following terms shall mean:

71 (1) "Average base rate", a rate calculated by dividing the total retail revenue
72 requirement for all the electrical corporation's rate classes by the total sales volumes stated
73 in kilowatt-hours for all such rate classes used to set rates in the applicable general rate
74 proceeding, exclusive of gross receipts tax, sales tax, and other similar pass-through taxes;

75 (2) "Average overall rate", a rate equal to the sum of the average base rate and the
76 average rider rate;

77 (3) "Average rider rate", a rate calculated by dividing the total of the sums to be
78 recovered from all customer classes under the electrical corporation's rate adjustment
79 mechanisms in place other than a rate adjustment mechanism under section 393.1075 by
80 the total sales volumes stated in kilowatt-hours for all of the electrical corporation's rate
81 classes used to set rates under such rate adjustment mechanisms, exclusive of gross receipts
82 tax, sales tax, and other similar pass-through taxes;

83 (4) "Class average base rate", a rate calculated by dividing the retail revenue
84 requirement from the applicable general rate proceeding that is allocated to the electrical
85 corporation's large power service rate class in that general rate proceeding by the total
86 sales volumes stated in kilowatt-hours for that class used to set rates in that general rate
87 proceeding, exclusive of gross receipts tax, sales tax, and other similar pass-through taxes;

88 (5) "Class average overall rate", a rate equal to the sum of the class average base
89 rate and the class average rider rate;

90 (6) "Class average rider rate", a rate calculated by dividing the total of the sums
91 allocated for recovery from the large power service rate class under the electrical
92 corporation's rate adjustment mechanisms in place, other than a rate adjustment
93 mechanism under section 393.1075, by the total sales volumes stated in kilowatt-hours for
94 that class used to set rates under such rate adjustment mechanisms, exclusive of gross
95 receipts tax, sales tax, and other similar pass-through taxes;

96 (7) "Force majeure event", an event or circumstance that occurs as a result of a
97 weather event, an act of God, war, terrorism, or other event which threatens the financial
98 integrity of the electrical corporation and that causes a reduction in revenues, an increase
99 in the cost of providing electrical service, or some combination thereof, and the event has
100 an associated fiscal impact on the electrical corporation's operations equal to three percent
101 or greater of the total revenue requirement established in the electrical corporation's last
102 general rate proceeding after taking into account the financial impact specified in section
103 393.137. Any force majeure event shall be subject to commission review and approval and
104 shall not preclude the commission from reviewing the prudence of any revenue reductions
105 or costs incurred during any proceeding to set rates;

106 (8) "Large power service rate class", the rate class of each corporation that
107 requires the highest minimum monthly billing demand of all of the electrical corporation's
108 rate classes in order to qualify as a member of such rate class, and that applies to
109 qualifying customers only if they utilize the electrical corporation's distribution system.

393.1670. 1. Notwithstanding the provisions of subdivision (1) of subsection 2 of
2 section 393.1030 and section 393.1045 to the contrary, and subject to the limitations
3 provided for in this section, an electrical corporation shall, commencing January 1, 2019,

4 **make solar rebates available in the amounts specified in this section. For systems becoming**
5 **operational between January 1, 2019, and June 30, 2019, the solar rebate shall be fifty**
6 **cents per watt, and for systems that become operational after June 30, 2019, through**
7 **December 31, 2023, the solar rebate shall be twenty-five cents per watt. The rebates**
8 **provided for by this section shall apply to new or expanded solar electric systems up to a**
9 **maximum of twenty-five kilowatts per system for residential customers and up to one**
10 **hundred fifty kilowatts per system for nonresidential customers. Customers shall be**
11 **eligible for rebates on new or expanded systems for the increment of new or extended**
12 **capacity and not for capacity on which rebates offered under any other provision of law**
13 **have previously been paid, up to the system kilowatt limits set forth in this section.**
14 **However, an electrical corporation's obligation to make solar rebate payments under this**
15 **section shall not exceed the following limitations:**

16 **(1) Electrical corporations with one million or more Missouri retail customers as**
17 **of the effective date of this section shall not be obligated to pay solar rebates in any**
18 **calendar year from 2019 through 2023 in an amount exceeding five million six hundred**
19 **thousand dollars or in an aggregate amount during those calendar years exceeding twenty-**
20 **eight million dollars;**

21 **(2) Electrical corporations with less than one million but more than two hundred**
22 **thousand Missouri retail customers as of the effective date of this section shall not be**
23 **obligated to pay solar rebates in any calendar year from 2019 through 2023 in an amount**
24 **exceeding one million six hundred thousand dollars or in an aggregate amount during**
25 **those calendar years exceeding eight million dollars; and**

26 **(3) Electrical corporations with two hundred thousand or less Missouri retail**
27 **customers as of the effective date of this section shall not be obligated to pay solar rebates**
28 **in any calendar year from 2019 through 2023 in an amount exceeding one million four**
29 **hundred thousand dollars or in an aggregate amount during those calendar years**
30 **exceeding seven million dollars.**

31 **2. At its election, the electrical corporation shall be permitted to recover the cost**
32 **of all solar rebate payments it has made through either base rates or through a rate**
33 **adjustment mechanism under section 393.1030, and shall, also at its election, be permitted**
34 **to defer and amortize the recovery of such costs, including interest at the electric**
35 **corporation's short-term borrowing rate, through either base rates or a surcharge over a**
36 **period of the electrical corporation's choice not to exceed five years; provided that, if**
37 **recovery of such costs in such manner and over such a time period would cause the**
38 **electrical corporation to exceed the one percent maximum average retail rate increase**
39 **limitation required by subdivision (1) of subsection 2 of section 393.1030, that part of**

40 recovery of such costs that would exceed such one percent limitation shall be deferred by
41 the electrical corporation to a regulatory asset, to which carrying costs at the electrical
42 corporation's weighted average cost of capital shall be added and recovered through base
43 rates or through a rate adjustment mechanism under section 393.1030, as soon as
44 practicable.

45 3. Solar rebates in the amounts specified for each calendar year and in the
46 aggregate for calendar years 2019 through 2023 referred to in this section shall become
47 available effective January 1, 2019. The solar rebate provision of subsection 3 of section
48 393.1030, including any commission orders relating to such provisions applicable to an
49 electrical corporation, are unaffected by this section.

50 4. Reductions in electrical corporation loads as a result of the installation of solar
51 systems not owned by the electrical corporation that provide electricity to the electrical
52 corporation's customers constitute conservation.

53 5. The commission shall have the authority to promulgate rules for the
54 implementation of this section, but only to the extent that such rules are consistent with,
55 and do not delay the implementation of, the provisions of this section. Any rule or portion
56 of a rule, as that term is defined in section 536.010 that is created under the authority
57 delegated in this section shall become effective only if it complies with and is subject to all
58 of the provisions of chapter 536 and, if applicable, section 536.028. This section and
59 chapter 536 are nonseverable and if any of the powers vested with the general assembly
60 pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul
61 a rule are subsequently held unconstitutional, then the grant of rulemaking authority and
62 any rule proposed or adopted after August 28, 2018, shall be invalid and void.

63 6. For purposes of this section, "electrical corporation" and "commission" shall
64 mean the same as defined in section 386.020, but an "electrical corporation" shall not
65 include an electrical corporation as described in subsection 2 of section 393.110.

66 7. This section shall expire on December 31, 2023; provided, however, that after
67 such expiration, the electrical corporation shall be entitled to recover any remaining
68 regulatory asset balance as provided in subsection 2 of this section.

Section 1. Notwithstanding the provisions of section 1.140 to the contrary, the
2 provisions of this act shall be nonseverable, and if any provision is for any reason held to
3 be invalid, such decision shall invalidate all of the remaining provisions of this act.

Section B. Because immediate action is necessary to reduce the electric bills of
2 consumers due to the implementation of federal tax cuts, the enactment of section 393.137 of this
3 act is deemed necessary for the immediate preservation of the public health, welfare, peace, and
4 safety, and is hereby declared to be an emergency act within the meaning of the constitution, and

5 the enactment of section 393.137 of this act shall be in full force and effect upon its passage and
6 approval.

✓