

Issue:	Legislative Concerns
Witness:	Steven C. Carver
Type of Exhibit:	Comments
Sponsoring Party:	Missouri Retailers Association & Consumers Counsel of Missouri
File No.:	EW-2013-0425
Date Prepared:	April 1, 2013

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

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In the Matter of a Working Case to Address)	
Legislative Concerns Regarding Proposals to)	File No. EW-2013-0425
Modify Ratemaking Procedures for Electric Utilities)	
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Comments and Appendices of

Steven C. Carver

Legislative Concerns

On behalf of

**The Missouri Retailers Association and
The Consumers Council of Missouri**

April 1, 2013

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Comments of Steven C. Carver

Q PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.

A My name is Steven C. Carver. My business address is PO Box 481934, Kansas City,
Missouri 64148.

Q WHAT IS YOUR PRESENT OCCUPATION?

A I am a Principal in the firm Utilitech, Inc., which specializes in providing consulting
services for clients who actively participate in the process surrounding the regulation of
public utility companies. Our work includes the review of utility rate applications, as well
as the performance of special investigations and analyses related to utility operations
and ratemaking issues.

Q ON WHOSE BEHALF ARE YOU APPEARING IN THIS PROCEEDING?

A The Missouri Retailers Association ("Missouri Retailers") and the Consumers Council of
Missouri. Missouri Retailers are commercial consumers of electricity and are materially
impacted by the rates of Missouri's electric utilities.

Q PLEASE SUMMARIZE THE PURPOSE AND CONTENT OF YOUR COMMENTS.

1 A On March 15, 2013, Missouri State Senator Eric S. Schmitt asked that the Missouri
2 Public Service Commission ("Commission") "open a case for investigation, hearings and
3 a Commission report regarding the legislative proposal within Senate Bill 207."¹ On
4 March 20, 2013, the Commission opened File No. EW-2013-0425 in order "to facilitate
5 its response to that request."² At page 2 of the referenced order, the Commission
6 directed interested stakeholders to also compare and comment on Senate Bill 207 ("SB
7 207") and House Bill 398 ("HB 398").

8 My comments herein are being presented in a more formal question and answer
9 format rather than a narrative report style, in anticipation of the hearings that were
10 originally scheduled by the Commission. Further, my comments were substantially
11 complete at the time that the Commission cancelled the previously scheduled hearings.
12 However, the substance and content of my comments would be and are identical,
13 regardless of the format or presentation style. Because the Commission and the
14 Missouri electric utilities have extensive experience with the discussion and presentation
15 of issues in a question and answer format, the form of my comments should be familiar
16 and understandable.

17 I will discuss the O&M tracker portion of SB 207/HB 398 and address general
18 regulatory policy issues. Mr. Michael Brosch will also discuss the Infrastructure System
19 Replacements ("ISRS") and other regulatory policy elements of SB 207/HB 398.

¹ Letter dated March 15, 2013, from Missouri State Senator Eric S. Schmitt to Commission Chairman Robert Kenney regarding Senate Bill 207.

² ORDER OPENING AN INVESTIGATION TO ADDRESS LEGISLATIVE CONCERNS REGARDING PROPOSALS TO MODIFY RATEMAKING PROCEDURES FOR ELECTRIC UTILITIES AND ESTABLISHING A PROCEDURAL SCHEDULE issued March 20, 2013, establishing File No. EW-2013-0425.

1 by the Commissioners to the position of Chief Accountant and assumed overall
2 management and policy responsibilities for the Accounting Department. I provided
3 guidance and assistance in the technical development of Commission Staff issues in
4 major rate cases and coordinated the general audit and administrative activities of the
5 Accounting Department.

6 I commenced employment with the firm in June 1987. During my employment
7 with Utilitech, I have been associated with various regulatory projects on behalf of clients
8 in the States of Arizona, California, Florida, Hawaii, Illinois, Iowa, Indiana, Kansas,
9 Mississippi, Missouri, Nevada, New Mexico, New York, Oklahoma, Pennsylvania, Texas,
10 Utah, Washington, West Virginia and Wyoming. I have conducted revenue requirement
11 analyses and special studies involving various regulated industries (i.e., electric, gas,
12 telephone, water and steam). Since joining the firm, I have occasionally appeared as an
13 expert witness before the Commission on behalf of various clients, including the
14 Commission Staff and the Office of the Public Counsel. Additional information regarding
15 my professional experience and qualifications is summarized in Appendix A.

16 **EXECUTIVE SUMMARY**

17 **Q PLEASE SUMMARIZE YOUR POSITION ON SB 207 AND HB 398.**

18 **A** SB 207 and HB 398 are composed of two key elements that are designed to increase
19 the earnings of Missouri electric utilities between rate cases:

- 20 1. A cash surcharge on customer bills for new plant investments and
- 21
- 22 2. A deferral accounting mechanism allowing for variances in expenses
- 23 to be set aside for future recovery from customers in the next rate
- 24 case.³
- 25

³ The expense deferral accounting mechanism is generally referenced herein as the "O&M tracker" or the "O&M tracking mechanism."

1 The electric utilities supporting and promoting this legislation have thus far
2 presented no evidence demonstrating any quantifiable economic or service quality
3 benefits for electric consumers. In contrast, each of the key elements of SB 207 and HB
4 398 will result in higher customer rates than would continuation of traditional regulation.

5 The current regulatory framework that is applied to electric utilities in Missouri is
6 not broken, serves to achieve a reasonable balance between the interests of utilities and
7 their customers and should not be liberalized in the manner proposed by SB 207 and HB
8 398. The proposed legislation would benefit only utility shareholders and would harm
9 ratepayers, producing significantly higher rates between general rate cases.

10 The Commission has a long track record of allowing utilities to have unique cost
11 recovery methods and approving non-traditional regulatory mechanisms to the benefit of
12 utilities.⁴ Examples include: granting deferral accounting authority and subsequent
13 amortization of extraordinary costs; implementing issue-specific tracking mechanisms
14 (e.g., pension/OPEB tracker and fuel/purchased power tracking mechanisms) when an
15 explicit need is demonstrated; and establishing a process that allows utilities to true-up
16 components of the test year cost of service to more closely match recent costs with the
17 effective date of any rate change authorized in a rate proceeding.

18 Further, the Commission has authorized non-traditional post-in service
19 construction accounting for several major projects where the utility was unable to
20 precisely time the completion of a rate case with the completion of the project, financially
21 benefiting the utility by allowing the capitalization of a return and depreciation expense
22 on the newly completed plant investment for recovery from customers in future rates –

⁴ Neither the Consumers Council of Missouri nor the Missouri Retailers Association make any representations regarding whether such non-traditional regulatory mechanisms discussed in these comments actually benefit consumers. Despite the fact that the Missouri Commission has adopted each of these alternative mechanisms, consumer groups believe that many of these alternative mechanisms generally work to the detriment of consumers or may have harmed consumers in specific instances.

1 the Union Electric Callaway⁵ and KCP&L Wolf Creek⁶ nuclear units, Sibley generating
2 station coal conversion,⁷ and Iatan Units 1 and 2⁸ are prime examples.

3 In addition, the Commission previously authorized a multi-year earnings sharing
4 mechanism for Ameren Missouri⁹ in the mid-1990's and an Experimental Regulatory
5 Plan for Kansas City Power & Light¹⁰ in 2005 pursuant to a Stipulation and Agreement of
6 the affected parties.

7 **O&M TRACKING MECHANISM**

8 **Q YOU PREVIOUSLY IDENTIFIED THE KEY ELEMENTS OF SB 207 AND HB 398 AS A**
9 **PLANT INVESTMENT SURCHARGE AND AN EXPENSE DEFERRAL MECHANISM.**
10 **ARE YOU ADDRESSING BOTH OF THESE ELEMENTS IN YOUR COMMENTS?**

11 **A** No. For purposes of this proceeding, I am addressing general policy matters and the
12 O&M tracking element¹¹ of SB 207 and HB 398. Mr. Michael Brosch will discuss the
13 plant investment surcharge in his comments.

⁵ See Commission File Nos. ER-84-168 and EO-85-17 (Union Electric Company).

⁶ See Commission File Nos. ER-85-128 and EO-85-185 (Kansas City Power & Light Company).

⁷ See Commission File No. ER-90-101 (KCP&L).

⁸ See Commission File Nos. EO-2005-0329 and ER-2009-0089 (KCP&L), and ER-2010-0356 (KCP&L Greater Missouri Operations).

⁹ See Commission File Nos. ER-95-411, EO-96-14 and EM-96-149 (Union Electric Company).

¹⁰ See Commission File No. EO-2005-0329 (KCP&L).

¹¹ Per SB 207/HB 398 Proposed Sections 393.1215.1(1) and 393.1215.1(2), the O&M tracker would encompass the difference between (a) "the noncapitalized costs used to set the revenue requirement" that include "labor, training, benefits, including but not limited to worker's compensation insurance, payroll taxes, transmission charges or expenses, property taxes, property insurance, and for external contractors contracted by the electrical corporation for the operation or maintenance of the electrical corporation's transmission, distribution, or generation systems" and (b) the comparable amounts "actually incurred by, or allocated to, the electrical corporation as reflected on its books and records in subsequent periods."

1 **Q PLEASE DESCRIBE THE O&M TRACKING MECHANISM.**

2 A In the two bills as initially proposed, the O&M tracking language was identical. In the
3 more recent versions that I have been provided, the language in Proposed Sections
4 393.1215 of SB 207 and HB 398 are virtually the same.¹² These more recent versions
5 of the proposed legislation are attached hereto as Appendices D (Senate Substitute for
6 Senate Committee Substitute for SB 207) and E (House Committee Substitute for House
7 Bill 398).

8 SB 207 and HB 398 would allow electric utilities to defer as a regulatory asset or
9 a regulatory liability changes (most likely increases) in O&M expenses¹³ between rate
10 cases for collection from customers in the “next” formal rate case.

- 11 • The Commission would be required to implement an accounting mechanism to
12 track differences in operation and maintenance expenses (i.e., labor, training,
13 benefits, property insurance and contractor costs) and in payroll taxes and
14 property taxes between those amounts actually incurred and the amount of such
15 expenses that was recognized and included in the preceding utility rate case.
16
- 17 • Such differences would be deferred on the utility’s books until the Company’s
18 next rate case, without any offset for sales growth or other cost reductions (e.g.,
19 refinancing of debt savings, changes in tax laws that would reduce State or
20 Federal income tax expense, etc.), and then amortized over a prospective three
21 year period.
22
- 23 • The deferral would explicitly exclude items already subject to a deferred
24 accounting mechanism, such as pension expense. Also excluded are officer
25 labor (typically allowed in a rate case) and earnings related incentive
26 compensation expenses (which have been historically disallowed by the
27 Commission).
28
- 29 • Any unamortized balance remaining in the deferral account is required to be
30 recognized in the following rate case and re-amortized over a three year period,
31 without any offset, reduction or adjustment due to any other factor, so as to
32 ensure full recovery of the amounts deferred.

¹² The observed differences between these versions of SB 207 and HB 398 are inconsequential for the purposes of the instant comments, but the differences appear in Proposed Sections 393.1215.1(1), 393.1215.3 and 393.1215.5.

¹³ Although the expense deferral that would be authorized if proposed Section 393.1215 is enacted is not limited to O&M expenses, as previously noted, this tracker element is identified herein as the “O&M tracking mechanism” or “O&M tracker” for ease of reference.

1 Coupled with the plant investment surcharge, this new O&M tracking mechanism
2 would have the effect of virtually guaranteeing that electric utilities will at least earn their
3 authorized return at ratepayer expense. Current incentives for utility management to
4 contain and control the levels of O&M expenses incurred between rate cases will be
5 terminated and replaced with a cost plus regulatory environment.

6 **Q WHY DO YOU CONTEND THAT INCENTIVES FOR UTILITY MANAGEMENT TO**
7 **CONTAIN AND CONTROL O&M EXPENSES WILL BE TERMINATED AND**
8 **REPLACED WITH A COST PLUS REGULATORY ENVIRONMENT?**

9 A Under the current regulatory framework, the existence of regulatory lag serves as a
10 mechanism to incentivize utility management to control costs. Utility management
11 knows that increases in O&M expenses that occur between rate cases will not be
12 automatically recovered from ratepayers, to the extent those expenses are not
13 separately tracked or are not offset by other changes in the cost of providing utility
14 service. Similarly, utility management is fully aware that the benefit of any decreases
15 (i.e., cost savings) in O&M expenses that occur between rate cases will be retained by
16 the utility.

17 Under the current regulatory framework, utility management has full discretion to
18 knowingly incur higher or lower O&M expenses, relative to amounts allowed in the prior
19 rate case, with full knowledge of how those decisions will impact the utility's financial
20 results. With or without offsetting cost savings, utility management is incented under
21 traditional rate regulation to contain the growth in costs between rate cases – as failure
22 to do so could jeopardize the utility's opportunity to achieve the last authorized return on
23 equity capital.

24 In contrast, SB 207 and HB 398 would dismantle these incentives existing under
25 traditional ratemaking and insulate utility management from cost containment

responsibility by essentially guaranteeing the future recovery of all variances in O&M expense and certain other taxes. When given a blank check without any incentive to control expenses, the likely outcome of this provision of SB 207 and HB 398 will be higher utility rates with no initial utility burden to demonstrate the reasonableness of the increased expenses.

Q DO SB 207 AND HB 398 CONTAIN LANGUAGE THAT WOULD ALLOW THE COMMISSION TO DENY RECOVERY OF ANY DEFERRED O&M EXPENSES ON THE BASIS THAT SUCH AMOUNTS WERE IMPRUDENTLY INCURRED?

A Yes. SB 207 and HB 398 contain language that provides for the disallowance of any expenses that are determined to be imprudent.¹⁴ However, statutory language that offers a prudence review as the only regulatory safety net is hollow at best.

Q WHY DO YOU SAY THAT?

A My entire professional career has been in the field of utility regulation. The specter of a prudence disallowance is easy to offer and difficult to sustain. Prudence audits, reviews or investigations, whether focused on capital projects or O&M expenses, are time consuming, information intensive and difficult to undertake and prosecute. The passage of SB 207 and HB 398, including the O&M tracker as currently proposed, will shift the burden from the utility to prove that the expenses it incurs are just and reasonable to the Commission Staff, Office of the Public Counsel and other intervenors in the next

¹⁴ Per proposed Section 393.1215.2 of SB 207 and HB 398, "...the regulatory asset or regulatory liability will be included in the determination of the electrical corporation's revenue requirement through amortization over a period of three years, without any offset, reduction, or adjustment based upon consideration of any other factor or otherwise, except for a review of the prudence of the costs included in any regulatory asset as part of the general rate proceeding unless the amount of the annual amortization as of the time the amortization is to occur exceeds two percent of the electrical corporation's base revenue level as determined by the Commission in the electrical corporation's prior general rate proceeding, in which event the annual amortization will be reduced so that it equals the two percent limitation." [Emphasis added]

1 following utility rate case, where these parties would be obligated to offer evidence to the
2 Commission demonstrating that some portion of the deferred expenses comprising the
3 regulatory asset (or regulatory liability) were unreasonable or otherwise imprudent.

4 This is a hefty burden to shift to the non-utility parties participating in the review
5 of a utility rate filing – a filing review that is already complicated with numerous
6 ratemaking issues and is time-limited by the 11-month clock¹⁵ that currently exists in
7 Missouri. Further, the scope of such a prudency review, rather than limited to the 12
8 months of the test year, would necessarily be expanded to encompass the cumulative
9 deferred expenses that span multiple years, requiring the commitment of finite resources
10 that would otherwise be dedicated to the review of the rate application.

11 **Q HAVE YOU ATTEMPTED TO QUANTIFY THE REGULATORY ASSET OR**
12 **REGULATORY LIABILITY THAT WOULD HAVE BEEN RECORDED BY THE**
13 **MISSOURI ELECTRIC UTILITIES IF THE O&M TRACKER MECHANISM HAD BEEN**
14 **IMPLEMENTED SEVERAL YEARS AGO?**

15 **A** No. Rate case quality financial data is not publicly available in sufficient detail to enable
16 such a calculation for Ameren Missouri, KCP&L, KCP&L Greater Missouri Operations
17 and Empire District Electric Company. As indicated previously, the O&M tracker does
18 not include all O&M expense or all taxes other than income taxes.¹⁶ Plus, certain
19 expenses that are already subject to a Commission approved tracking mechanism are

¹⁵ Pursuant to 393.150 RSMo, , the Commission has a maximum of eleven months from the date an application for rate relief is filed by a regulated utility to the effective date of a rate order setting new retail rates. If the Commission fails to issue an order within this period, the rate relief sought by the utility application is deemed to have been approved by operation of law (also known as the “operation of law date”).

¹⁶ See Proposed Sections 393.1215.1 and 393.1215.2 for the identified inclusions and exclusions. Generally, all noncapitalized costs (operations and maintenance expenses and taxes other than income tax expense) would be eligible for the O&M tracker, unless separately tracked or specifically excluded.

1 excluded (e.g., fuel and purchased power costs, pension costs, other post-retirement
2 employee benefits, vegetation management costs, storm restoration costs, etc.) from the
3 O&M tracker. Consequently, a series of calculations would be required to compile
4 specific data from each electric utility's financial records – data that is not readily
5 available to non-utility parties – in order to precisely quantify the expense deferrals that
6 would have been recorded assuming the O&M tracker had been implemented several
7 years ago.

8 **Q WHY IS IT NOT POSSIBLE TO QUANTIFY THE SPECIFIC EXPENSES ELIGIBLE**
9 **FOR TRACKING UNDER THE PENDING LEGISLATION?**

10 A The specification of expenses eligible for tracking does not adhere to any specified
11 accounting breakdowns that are readily available from existing accounting records and
12 may be subject to interpretation in application. Instead, detailed account queries and
13 analysis would be required to isolate the expenses excluded from tracking.

14 For example, labor costs for corporate officers are excluded, but related payroll
15 taxes and employee benefits for those officers would appear to be includable in the
16 tracker.

17 Additionally, incentive compensation costs that are based on corporate earnings
18 are excluded, but these costs are typically excluded in a rate case and involve a series
19 of detailed calculations to quantify.

20 Next, the exclusion of administrative and general labor costs recorded in Account
21 920 of the FERC Uniform System of Accounts could overlap with the exclusion of
22 corporate officer labor costs identified separately for exclusion.

23 Finally, the general reference to “noncapitalized costs used to set the revenue
24 requirement” in the prior rate case will need to be further defined and clarified,
25 presumably by the Commission, if SB 207 and HB 398 are enacted in current form.

1 With these vagaries, it is impossible to specifically quantify at this time either the base
2 costs (e.g., the expenses recently allowed in Commission rate orders) or the
3 subsequently incurred expenses to be differenced in quantifying regulatory asset or
4 liability amounts that would have been recorded with earlier implementation.

5 **Q DO THE PROPOSED BILLS INCLUDE A LIMITATION OR CAP ON THE AMOUNT OF**
6 **THE ANNUAL REGULATORY ASSET AMORTIZATION?**

7 A Yes. Proposed Section 393.1215.2 states that if the annual amortization “exceeds two
8 percent of the electrical corporation’s base revenue level as determined by the
9 commission in the electrical corporation’s prior general rate proceeding, in which event
10 the annual amortization will be reduced so that it equals the two percent limitation.”

11 **Q HAVE YOU BEEN ABLE TO ESTIMATE THE AMOUNT OF THIS 2% CAP ON THE**
12 **ANNUAL AMORTIZATION?**

13 A Yes. However, rate case quality data is not readily available from public sources to
14 enable a precise determination of the “base revenue level” for each Missouri electric
15 utility. However, as shown by the illustration set forth in the table below, a base revenue
16 level of \$1 billion¹⁷ would translate into an annual amortization cap of about \$20 million
17 which would result from cumulative deferred expenses (aka regulatory asset balance) of
18 about \$60 million.¹⁸

¹⁷ According the 2011 FERC Form 1 annual reports prepared by Ameren Missouri and KCP&L, the annual base revenue level is not explicitly disclosed. However, total sales of electricity were about \$3.16 billion and \$1.54 billion in 2011 for Ameren Missouri and KCP&L (i.e., Missouri and Kansas combined), respectively. A proxy for the base revenue levels can be roughly estimated by removing recorded fuel and purchased power expense from these annual sales. Such a net base revenue estimate would be about \$2.3 billion for Ameren Missouri and in excess of \$1.1 billion for KCP&L’s total electric operations.

¹⁸ This illustrative calculation is linear. If the base revenue amount is revised higher or lower, the two percent cap limitation and the three year amortization would be fixed by SB 207 and HB 398.

1		Amount
2	Base Revenues	\$ 1,000,000,000
3	Cap Limitation	x 2.00%
4	Annual Amortization Limit	\$ 20,000,000
5	Amortization Term (years)	x 3
6	Regulatory Asset Balance	\$ 60,000,000

7 An annual amortization of \$20 million is not an immaterial amount for Ameren
8 Missouri or KCP&L. Assuming an implied limit on the regulatory asset balance of \$60
9 million, which would appear to be a reasonable ballpark for the larger electric utilities in
10 Missouri, helps illustrate that the 2% limitation is not really a limitation. If an electric
11 utility were to knowingly incur \$60 million of higher non-tracked expenses that are not
12 offset by other cost savings or revenue growth, the utility should file a rate case in order
to recover those increases through base rates rather than simply defer those expenses
for future recovery.

13 **Q WHY WOULD A RATE CASE FILING BE A MORE APPROPRIATE FORUM FOR**
14 **REVIEW OF SIGNIFICANTLY INCREASED EXPENSES, RATHER THAN SIMPLY**
15 **DEFERRING THE INCREASED AMOUNTS FOR LATER RECOVERY?**

16 **A** A rate filing would allow the Commission to consider all relevant factors, including
17 updated costs of capital, rate base and sales/revenue levels, in order to balance the
18 interests of the utility and its customers and issue an informed and considered decision
19 as to the appropriate amount of rate relief to be granted. Unfortunately, the O&M tracker
20 provisions of SB 207 and HB 398 would authorize the utility to defer those expenses on
21 its books and records as a regulatory asset and would require the Commission to
22 amortize that amount over three years in the utility's next rate case – subject only to a
23 finding that none of the deferred expenses were imprudent.

REGULATORY POLICY

Q WHY ARE PRICES AND SERVICES OFFERED BY PUBLIC UTILITIES REGULATED BY STATE AGENCIES LIKE THE MISSOURI PUBLIC SERVICE COMMISSION?

A It is neither financially viable nor economically efficient at this time to establish fully competitive markets for the provision of electric utility services and delivery of electricity to end users. In order for such an environment to exist, multiple enterprises engaged in the competitive marketplace would likely own redundant and competing assets to provide electric utility services to customers over duplicative infrastructures (i.e., transmission and distribution lines, substations, transformers, etc.).

Recognizing the inefficiencies of a market structure with multiple competing electricity suppliers, electric utilities and regulators long ago entered into a “regulatory compact” that is typically defined by statute and that allows the utility to provide monopoly service in a specific geographic area in exchange for service oversight and price regulation. More specifically, utilities are required to provide safe and adequate service at just and reasonable rates to all qualifying customers on a non-discriminatory basis. In return for accepting this service obligation, utilities are allowed an opportunity to provide service on a monopolistic basis and recover their prudently incurred costs as well as an opportunity to earn a reasonable return on the investment necessary to provide utility service.

In the absence of other electric utilities offering service in the same area, there is no competitive market pressure to restrain the prices the utility can charge for the service it provides to customers. Because utilities operate as monopolies within a capital intensive business, it is imperative that incurred costs be subject to regulatory scrutiny before they become the basis for higher rates charged to customers.

1 What often gets overlooked by casual observers of the complex regulatory
2 process is that the Commission serves as a surrogate for competition that might
3 otherwise impose pricing constraints in a more competitive environment. The
4 Commission has the authority and the responsibility to review the utility's cost of service,
5 consider the evidence presented in each rate proceeding and issue findings as to the
6 level of rate relief that is appropriate – after considering all relevant facts and all
7 components of the cost of providing utility service.

8 **Q DO YOU BELIEVE THAT PASSAGE OF SB 207 AND HB 398 WOULD IMPROVE**
9 **UTILITY EARNINGS AND REDUCE THE DELAY IN RECOVERING INCREASING**
10 **EXPENSES FROM RATEPAYERS?**

11 A Yes.

12 **Q WOULD HIGHER EARNINGS AND REDUCED REGULATORY LAG BENEFIT BOTH**
13 **THE UTILITIES AND THEIR CUSTOMERS?**

14 A No. The regulatory process does result in a cost review period, often referred to as
15 regulatory lag, between the updating of test year information within a rate case and the
16 comprehensive updating of information in a next rate case. This regulatory lag serves
17 not only the essential role of providing for formal regulatory review of the cost to serve,
18 but also exists as an incentive for the utility to control its costs between test years. For
19 example:

- 20 • Increases in the utility's cost of service (e.g., growth in plant in service
21 and higher O&M expenses) subsequent to the last rate case will be
22 temporarily absorbed by the utility until those costs are considered in the
23 next rate case or are offset by other factors (e.g., increasing customer
24 counts and sales levels that produce additional margin revenues).
- 25 • Decreases in the cost of service (e.g., declining rate base investment,
26 increasing net operating income, reduced interest costs, etc.) will be
27

1 temporarily retained by the utility until the next rate case, thereby
2 increasing earnings in the interim.
3

4 Thus, the known existence of regulatory lag should serve to encourage
5 utility management to carefully manage business operations and the incurrence
6 of operating and maintenance expenses. In my opinion, it would be poor public
7 policy to completely eliminate regulatory lag by legislatively allowing a virtual
8 guarantee of recovery for changes in any defined expenses. Regulatory lag
9 serves to replace a small amount of the efficiency incentives that are otherwise
10 blunted when prices are routinely based upon actual costs to serve.

11 Utility services are monopoly services. In the absence of any meaningful
12 competitive pressure to control costs, it is essential that the electric utility industry
13 not be given a blank check to spend unlimited funds on new plant and higher
14 expenses with guaranteed rapid or deferred expense recovery and little
15 regulatory scrutiny of such expenses.

16 **Q WHY IS IT NECESSARY FOR THE REGULATORY PROCESS TO INCLUDE A COST**
17 **REVIEW PERIOD THAT RESULTS IN REGULATORY LAG?**

18 **A** In the absence of competition, electric utility rates are necessarily based upon the
19 incurred overall cost of providing utility service. This approach ensures that capital
20 intensive utilities retain access to needed financial capital on reasonable terms, while
21 preventing these monopolistic for-profit businesses from pricing service at levels that
22 extract monopoly profits. In general terms, the discovery, analysis and ultimate
23 determination of the reasonable cost of providing utility service is both complex and time
24 consuming if undertaken with reasonable care. Regulatory agencies have established
25 policies and practices for selecting a test year for purposes of determining actual and pro
26 forma rate base, operating revenues, expenses and operating income.

1 In Missouri, the Commission typically adopts a relatively recent 12-month period
2 (e.g., the twelve months ending December 2012) as the rate case test year, which is
3 adjusted for changes that are fixed, known and measurable for ratemaking purposes
4 through a specified date (e.g., May 31, 2013) following the end of the test year. In
5 addition, the Commission typically allows the use of end-of-period rate base valuation,
6 as well as various annualization and normalization adjustments to recognize expense
7 and revenue changes that occur during and subsequent to the test year, in order to set
8 rates reflective of known and measurable ongoing investment, revenue and expense
9 levels.

10 Further, the Commission allows a true-up of specific elements of the cost of
11 service to reflect changes in investment, revenues and expenses through a specified
12 date subsequent to formal rate case hearings, as necessary and appropriate. This
13 process results in the recognition of the latest changes in the utility's cost to serve in the
14 rates and tariffs ultimately authorized by the Commission.

15 In order for the Commission to satisfy its statutory obligation that utility rates are
16 just and reasonable, the regulatory process must provide adequate time for the
17 collection and review of detailed financial and operational data by the parties involved in
18 a utility rate case. In the absence of such a process, the record in a rate case may be
19 insufficient to allow the Commission to determine the proper cost of service upon which
20 just and reasonable utility rates should be based.

21 **Q WHY IS THE SELECTION OF AND RELIANCE ON A TEST YEAR IMPORTANT IN**
22 **THE DETERMINATION OF JUST AND REASONABLE UTILITY RATES?**

23 **A** As previously discussed, the base test year is typically a fairly recent actual 12-month
24 period. In quantifying a change in utility rates, the actual results of operations and net

1 investment in rate base are adjusted to annualize, normalize and consistently balance
2 the key elements of the ratemaking equation.

3 The ratemaking equation commonly employed by this Commission, and other
4 regulatory agencies, compares a required return on rate base to the return on
5 investment generated by adjusted test year operating results (i.e., operating revenues at
6 present rates less operating expenses, depreciation and taxes). The following formulae
7 depict the ratemaking equation and the quantification of the required change in utility
8 rates:

$$\text{Revenue Requirement} = (\text{RB} \times \text{ROR}) + \text{E}$$

Where,

RB = Rate Base

ROR = Rate of Return

E = Expenses, including depreciation & income taxes

Then,

$$\text{Rate Change} = \text{Revenue Requirement} - \text{Revenues at Present Rates}$$

9
10 If the return indicated by the adjusted operating results (i.e., adjusted test year
11 net operating income divided by rate base) is deficient, an increase in revenues is
12 required to provide the utility an opportunity, not a guarantee, to earn a “reasonable”
13 return on its investment. Conversely, an excessive return would support a reduction in
14 utility revenues and rates.

15 For the ratemaking equation to function properly, each of the components
16 comprising the equation (i.e., rate base, revenues, expenses and rate of return) must be
17 reasonably representative of ongoing levels, internally consistent and comparable –
18 within the context of test period parameters. By synchronizing or maintaining the
19 comparability of revenues, expenses and investment, the integrity of the test year can be

1 maintained with the reasonable expectation that the resulting rates will not significantly
2 misstate the ongoing cost of providing utility service.

3 Consequently, it is critical that the ratemaking process properly synchronize only
4 those known and measurable changes that occur during the test year or within a
5 reasonable period subsequent thereto, rather than establish utility rates on inappropriate
6 factors or inconsistent post-test year events. In this manner, regulators can best be
7 assured that rates are reasonably based on ongoing cost levels.

8 In their present form, SB 207 and HB 398 would intentionally inject inconsistent
9 and unneeded expense recovery considerations into the already complex ratemaking
10 process. The efforts of the Commission to fairly and equitably balance the interests of
11 utility shareholders with those of electric consumers will be significantly diminished with
12 the enactment of SB 207 and HB 398, resulting in unnecessary increases in utility rates.

13 **Q IF A NEW INVESTMENT OR AN INCREASED EXPENSE AMOUNT IS INCURRED BY**
14 **AN ELECTRIC UTILITY BETWEEN RATE CASES, WILL THE UTILITY FAIL TO**
15 **RECOVER THAT HIGHER COST UNTIL ITS NEXT RATE CASE?**

16 **A** No. Although significant efforts may be undertaken to assist in the establishment of
17 rates based on a balanced test year, utility management may implement new programs,
18 redirect business objectives or make decisions on a daily basis that could result in the
19 incurrence of a different level of expenses or capital expenditures that significantly
20 depart from comparable amounts that were formally included in the last rate case. The
21 ability and authority of utility personnel to exercise management discretion in these
22 matters is one of the reasons that the ratemaking process involving rate-regulated public
23 utilities is intended to convey an opportunity, rather than a guarantee, to earn a
24 “reasonable” return on utility investment. The components and specific costs that are
25 measured and analyzed within the test year rate base as well as test year income

statement are known to be dynamic and subject to continuous change, with some amounts increasing and others declining between rate case test years. Whenever the utility's *overall costs* begin to exceed its *overall revenues* at present rates, it may be time to submit a next rate case filing to rebalance revenues with the cost of providing utility service.

Q IS THE CONCEPT OF FIXED, KNOWN AND MEASURABLE CHANGES, AS TYPICALLY USED IN THE RATEMAKING PROCESS, CONSIDERED OR ADDRESSED IN THE O&M TRACKER EMBODIED IN SB 207 AND HB 398?

A No. The O&M tracker provisions of SB 207 and HB 398 represent nothing more than a compare and defer mechanism. There is no consideration of the cause of or need for those underlying changes that have contributed to an expense variance from the amounts allowed in the prior rate case. In contrast, rate case recognition of changes or adjustments to test year rate base and operating income should be consistently applied and limited to transactions or events that are fixed, known and measurable for ratemaking purposes, as commonly applied in utility ratemaking:

Fixed, known and measurable changes – transactions or events that are:

- (a) Fixed in time. A qualifying transaction or event must be “fixed” within the test year or within the specified period following the test year.
- (b) Known to occur. The transaction or event must be “known” to exist, in contrast with possible, uncertain or speculative changes.
- (c) Measurable in amount. The financial effect of the transaction or event can be “measured” or accurately quantified.

In the context of a rate case, a transaction or event should be considered fixed, known and measurable only if it has been agreed to by contract or commitment, can be verified to have occurred within the specified time period, and can be quantified employing known data. The O&M tracker provisions merely compare expense dollars to determine deferral amounts without any objective review or analysis.

1 The ratemaking recognition of fixed, known and measurable changes must be
2 reasonably balanced or matched with offsetting factors. Otherwise, a distorted view of
3 the cost of service may lead to improper rate adjustments. A consistent matching of
4 both price and quantity changes is necessary to achieve this balance, particularly when
5 volume changes, during or subsequent to the test year, offset price level increases.
6 Similarly, appropriate application of this matching principle would also require expense
7 increases to be offset or reduced by other expense savings or revenue growth in
8 determining the net cost of one-time or infrequent activities or programs eligible for
9 deferral and subsequent amortization recovery from ratepayers. However, the O&M
10 tracker element of SB 207 and HB 398 prohibits the consideration of offsetting factors,
11 reductions or considerations.¹⁹

12 **Q BASED ON YOUR REGULATORY EXPERIENCE, IS IT REASONABLE TO EXPECT**
13 **THAT CHANGES OCCURRING SUBSEQUENT TO A RATE CASE TEST YEAR WILL**
14 **NECESSARILY PUT UPWARD PRESSURE ON THE COST OF PROVIDING UTILITY**
15 **SERVICE?**

16 **A** No. It may be anticipated that the passage of time may result in increasing expenses
17 (and investments), during periods of even modest inflation. As a result, the recognition
18 of various revenue/expense annualization and/or normalization adjustments might be
19 expected to consistently yield higher revenue requirements. However, revenue trends,
20 productivity gains and reductions in certain operating expenses may offset the
21 presumption of a generally increasing cost of service. Favorable and unfavorable
22 revenue requirement influences can offset one another for many years, explaining how
23 many utilities, including the Missouri electric utilities, have successfully avoided base

¹⁹ See SB 207 and HB 398 Proposed Sections 393.1215.2.

1 rate increases for extended periods of time since mid-1980. During the more recent
2 challenging economic periods, Missouri electric utilities have frequently filed rate cases
3 to increase base utility rates. However, the need for rate relief is not merely a function of
4 time but rather the cumulative effect of all changes in the cost of providing utility service.

5 All components of the ratemaking equation change over time. It is only by
6 consistently analyzing the major cost of service components that a determination can be
7 made as to whether the overall revenue requirement has changed materially. The key
8 issue is whether revenues are growing faster or slower than the overall costs necessary
9 to support those revenues.

10 **Q DO THE PROVISIONS OF SB 207 AND HB 398 CONSISTENTLY BALANCE THE**
11 **MAJOR COMPONENTS OF AN ELECTRIC UTILITY'S COST OF SERVICE?**

12 **A** No. Unfortunately, SB 207 and HB 398 represent piecemeal ratemaking and distort the
13 proper balance of the components of the ratemaking equation that is otherwise achieved
14 in a general rate case. In fact, both of these bills explicitly prohibit the Commission from
15 considering offsetting factors.²⁰ Unlike traditional rate case reviews, where both the
16 costs that are increasing and the costs that are decreasing must be considered, the
17 O&M tracker provisions of SB 207 and HB 398 would account for increasing expenses in
18 isolation and would burden ratepayers with the deferral of expenses to be recovered in
19 future rate cases that will solely benefit the utility and its shareholders.

²⁰ See SB 207 Proposed Section 393.1215.2 and HB 398 Proposed Section 393.1215.2 which state that the regulatory asset or regulatory liability will be included in the utility's next general rate case and amortized over three years "...without any offset, reduction, or adjustment based upon consideration of any other factor or otherwise..." The only exception to this denial of offsets is limited to prudence disallowances.

1 **NON-TRADITIONAL REGULATORY APPROACHES**

2 **Q YOU PREVIOUSLY INDICATED THAT THE COMMISSION HAS PREVIOUSLY**
3 **AUTHORIZED NON-TRADITIONAL REGULATORY APPROACHES WHEN**
4 **ADDRESSING UNIQUE FACTS AND CIRCUMSTANCES FOR INDIVIDUAL**
5 **ELECTRIC UTILITIES. PLEASE BRIEFLY EXPLAIN THE MULTI-YEAR EARNINGS**
6 **SHARING APPROVED FOR AMEREN MISSOURI.**

7 **A A review by the Commission Staff of certain earnings monitoring reports of Ameren**
8 **Missouri (formerly known as Union Electric Company and AmerenUE) resulted in a**
9 **stipulation and agreement that provided for (i) a one-time credit to customers of \$30**
10 **million, (ii) an annual rate reduction of \$30 million, and (iii) the implementation of an**
11 **Experimental Alternative Regulatory Plan that included a sharing grid designed to benefit**
12 **both ratepayers and shareholders based on the attainment of a predetermined range of**
13 **equity returns. In July 1995, the Commission issued a Report and Order approving the**
14 **stipulation and the experimental alternative regulatory plan for an initial term of three**
15 **years.²¹**

16 Under the terms of the experimental alternative regulatory plan, ratepayers
17 received certain earnings sharing credits that would not have otherwise occurred while
18 allowing the Company to retain a portion of the earnings above the return on equity last
19 authorized by the Commission. This alternative regulatory plan established a general
20 framework for the parties and demonstrated the Commission's ability to address unique
21 facts and circumstances as they arise from time to time.

22 **Q COULD YOU ALSO BRIEFLY DISCUSS THE EXPERIMENTAL REGULATORY PLAN**
23 **THE COMMISSION APPROVED FOR KCP&L?**

²¹ See the Commission Report and Order in File No. ER-95-411, issued July 21, 1995, and the Report and Order in File No. EO-96-14, issued December 23, 1999.

1 A Similar to the Ameren Missouri Experimental Alternative Regulatory Plan, the
2 Commission approved a multi-year Experimental Regulatory Plan in July 2005 that
3 provided incremental revenues to support KCP&L's credit ratings during a period of large
4 infrastructure investment.²²

5 The Commission approved the Experimental Regulatory Plan as a
6 comprehensive framework that addressed the need for a cost-based but diverse
7 resource adequacy program; adhered to traditional ratemaking principles; called for a
8 maximum of four separate rate cases, a Class Cost of Service Study and monitoring of
9 KCPL's Resource Plan and related construction. KCP&L was required to take prudent
10 and reasonable steps to maintain its investment grade rating, manage costs, improve
11 productivity and preserve service quality. The Experimental Regulatory Plan also
12 supported adding amortization amounts to KCP&L's cost of service in rate cases when
13 the projected cash flows resulting from the Company's Missouri jurisdictional operations,
14 as determined by the Commission, would fail to meet or exceed that portion of the lower
15 end of the top third of the BBB range.

16 Again, the Commission approved an Experimental Regulatory Plan that was
17 agreed to by stipulation and designed to maintain the utility's credit ratings.

18 **Q DO YOU HAVE ANY FINAL COMMENTS REGARDING SB 207 AND HB 398?**

19 A Yes. Proponents of SB 207 and HB 398 have engaged in a public advertising campaign
20 that attempts to characterize the Missouri regulatory process as outdated and Missouri
21 state laws as in dire need of change. Images of old crank telephones aside; the
22 Commission has taken numerous actions since 1980 that were responsive to the needs
23 of Missouri electric utilities under the very same statutory provisions about which the

²² The Commission approved the KCP&L Rate Plan by Report and Order, issued July 28, 2005, in File No. EO-2005-0329.

1 advertising campaign now complains. I find it curious that the electric utilities are not
2 now also complaining about the Commission's prior approval of the experimental
3 regulatory plans, authorization of construction accounting, granting the deferral and
4 amortization of extraordinary expenses or implementing various cost tracking
5 mechanisms over the years. The existing regulatory framework in Missouri is alive and
6 well. The regulatory changes embodied in SB 207 and HB 398 will result in
7 unnecessary and unneeded increases in revenues for Missouri electric utilities that will
8 be harmful to and at the expense of ratepayers.

9 **Q DOES THIS CONCLUDE YOUR COMMENTS?**

10 **A** Yes.

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

**In the Matter of a Working Case to Address
Legislative Concerns Regarding Proposals to
Modify Ratemaking Procedures for Electric Utilities**

Case No. EW-2013-0425

STATE OF MISSOURI

COUNTY OF JACKSON

)
) **SS**
)

Affidavit of Steven C. Carver

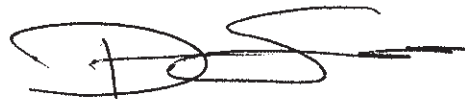
Steven C. Carver, being first duly sworn, on his oath states:

1. My name is Steven C. Carver. I am Vice President of Utilitech, Inc., having my principal place of business at PO Box 481934, Kansas City, Missouri 64148. We have been retained by the Missouri Retailers Association and the Consumers Council of Missouri in this proceeding on their behalf.
2. Attached hereto and made a part hereof for all purposes are my comments in question and answer format and appendices which were prepared in written form for introduction into evidence in Missouri Public Service Commission Case No. EW-2013-0425.
3. I hereby swear and affirm that the comments and appendices are true and correct and that they show the matters and things that they purport to show.



Steven C. Carver

Subscribed and sworn to before me this 1st day of April 2013.



Notary Public

Appendix A

Qualifications of Steven C. Carver

EMPLOYER: Utilitech, Inc.
Regulatory and Management Consultants

POSITION: Vice-President

ADDRESS: P.O. Box 481934
Kansas City, Missouri 64148

PRIOR EXPERIENCE:

6/87 - Present	Utilitech, Inc.
4/83 - 6/87	Missouri Public Service Commission, Chief Accountant
10/79 - 4/83	Missouri Public Service Commission, Accounting Manager
6/77 -10/79	Missouri Public Service Commission, Regulatory Auditor

EDUCATION:

Central Missouri State University
Bachelor of Science Degree in Business Administration
Accounting Major (1977)

State Fair Community College
Associate of Arts Degree - Emphasis in Accounting (1975)

OTHER QUALIFICATIONS:

Speaker	- 1988 Missouri Public Service Commission Workshop
	- 1990 Annual NASUCA/NARUC Convention (Orlando)
	- 1996 Mid-Year NASUCA Meeting (Chicago)
Instructor	- 1994 Hawaii Consumer Advocate Regulatory Training Program
	- 1997 Hawaii Consumer Advocate Telecommunications Training Program
	- 1999 Overview of Utility Regulation (Hawaii)
	- 2000 Telecommunications: Overview of Regulation (Arizona)

PRIOR TESTIMONIES: (See listings on Appendix A, pages 5-9.)

Education and Experience

I graduated from State Fair Community College where I received an Associate of Arts Degree with an emphasis in Accounting. I also graduated from Central Missouri State University with a Bachelor of Science Degree in Business Administration, majoring in Accounting. Subsequent to the completion of formal education, my entire professional career has been dedicated to public utility investigations, regulatory analysis and consulting.

From 1977 to 1987, I was employed by the Missouri Public Service Commission in various professional auditing positions associated with the regulation of public utilities. In that capacity, I participated in and supervised various accounting compliance and rate case audits (including earnings reviews) of electric, gas, telephone utility, water/wastewater and steam utility companies and was responsible for the submission of expert testimony as a Staff witness.

In October 1979, I was promoted to the position of Accounting Manager of the Kansas City Office of the Commission Staff and assumed supervisory responsibilities for a staff of regulatory auditors, directing numerous rate case audits of large electric, gas and telephone utility companies operating in the State of Missouri. In April 1983, I was promoted by the Commission to the position of Chief Accountant and assumed overall management and policy responsibilities for the Accounting Department, providing guidance and assistance in the technical development of Staff issues in major rate cases and coordinating the general audit and administrative activities of the Department.

During 1986-1987, I was actively involved in a docket established by the Missouri Public Service Commission to investigate the revenue requirement impact of the Tax Reform Act of 1986 on Missouri utilities. In 1986, I prepared the comments of the Missouri Public Service Commission respecting the Proposed Amendment to FAS Statement No. 71 (relating to phase-in plans, plant abandonments, plant cost disallowances, etc.) as well as the Proposed Statement of Financial Accounting Standards for Accounting for Income Taxes. I actively

participated in the discussions of a subcommittee responsible for drafting the comments of the National Association of Regulatory Utility Commissioners ("NARUC") on the Proposed Amendment to FAS Statement No. 71 and subsequently appeared before the Financial Accounting Standards Board with a Missouri Commissioner to present the positions of NARUC and the Missouri Commission.

In July of 1983 and in addition to my duties as Chief Accountant, I was appointed Project Manager of the Commission Staff's construction audits of two nuclear power plants owned by electric utilities regulated by the Missouri Public Service Commission. As Project Manager, I was involved in the staffing and coordination of the construction audits and in the development and preparation of the Staff's audit findings for presentation to the Commission. In this capacity, I coordinated and supervised a matrix organization of Staff accountants, engineers, attorneys and consultants.

Since commencing employment with Utilitech in June 1987, I have conducted revenue requirement and special studies involving various regulated industries (i.e., electric, gas, telephone, water and steam heating) and have been associated with regulatory projects on behalf of clients in twenty State regulatory jurisdictions.

Previous Expert Testimony

I have appeared as an expert witness before the Missouri Public Service Commission on behalf of various clients, including the Commission Staff. I have filed testimony before utility regulatory agencies in Arizona, California, Florida, Hawaii, Kansas, Indiana, Nevada, New Mexico, Missouri, Oklahoma, Pennsylvania, Texas, Utah, and Washington. My previous experience involving electric and gas company proceedings includes: PSI Energy, Union Electric (now Ameren Missouri), Kansas City Power & Light, Missouri Public Service/ UtiliCorp United/Aquila (now Kansas City Power & Light Company), Public Service Company of

Oklahoma, Oklahoma Gas and Electric, Hawaii Electric Light Company, Hawaiian Electric Company, Maui Electric Company, Sierra Pacific Power/ Nevada Power, Gas Service Company, Northern Indiana Public Service Company, Arkla (a Division of NORAM Energy), Oklahoma Natural Gas Company, Missouri Gas Energy, Arizona Public Service Company, Southwestern Public Service (Texas), Atmos Energy Corporation (Texas divisions) and The Gas Company (Hawaii). I have also sponsored testimony in telecommunications, water and steam heat proceedings in various regulatory jurisdictions.

STEVEN C. CARVER
Summary of Previously Filed Testimony
1978 through 2012

Utility	Jurisdiction	Agency	Docket/Case Number	Party Represented	Year	Areas Addressed
Kansas City Power & Light	Missouri	PSC	ER-78-252	Staff	1978	Rate Base, Operating Income
Gas Service Company	Missouri	PSC	GR-79-114	Staff	1979	Rate Base, Operating Income
United Telephone of Missouri	Missouri	PSC	TO-79-227	Staff	1979	Rate Base, Operating Income, Affiliated Interest
Kansas City Power & Light	Missouri	PSC	ER-80-48	Staff	1980	Operating Income, Fuel Cost
Gas Service Company	Missouri	PSC	GR-80-173	Staff	1980	Operating Income
Southwestern Bell Telephone	Missouri	PSC	TR-80-256	Staff	1980	Operating Income
Missouri Public Service	Missouri	PSC	ER-81-85	Staff	1981	Operating Income
Missouri Public Service	Missouri	PSC	ER-81-154	Staff	1981	Interim Rates
Gas Service Company	Missouri	PSC	GR-81-155	Staff	1981	Operating Income
Gas Service Company	Missouri	PSC	GR-81-257	Staff	1981	Interim Rates
Union Electric Company	Missouri	PSC	ER-82-52	Staff	1982	Operating Income, Fuel Cost
Southwestern Bell Telephone	Missouri	PSC	TR-82-199	Staff	1982	Operating Income
Union Electric Company	Missouri	PSC	ER-83-163	Staff	1983	Rate Base, Plant Cancellation Costs
Gas Service Company	Missouri	PSC	GR-83-207	Staff	1983	Interim Rates
Union Electric Company	Missouri	PSC	ER-84-168/ EO-85-17	Staff	1984 1985	Construction Audit, Operating Income
Kansas City Power & Light	Missouri	PSC	ER-85-128/ EO-85-185	Staff	1983 1985	Construction Audit, Rate Base, Operating Income
St. Joseph Light & Power	Missouri	PSC	EC-88-107	Public Counsel	1987	Rate Base, Operating Income
Northern Indiana Public Service	Indiana	IURC	38380	Consumer Counsel	1988	Operating Income
US West Communications	Arizona	ACC	E-1051-88-146	Staff	1989	Rate Base, Operating Income

STEVEN C. CARVER
Summary of Previously Filed Testimony
1978 through 2012

Utility	Jurisdiction	Agency	Docket/Case Number	Party Represented	Year	Areas Addressed
Dauphin Consol. Water Supply Co.	Pennsylvania	PUC	R-891259	Staff	1989	Rate Base, Operating Income, Rate Design
Southwest Gas Corporation	Arizona	ACC	E-1551-89-102 E-1551-89-103	Staff	1989	Rate Base, Operating Income
Southwestern Bell Telephone	Missouri	PSC	TO-89-56	Public Counsel	1989 1990	Intrastate Cost Accounting Manual
Missouri Public Service	Missouri	PSC	ER-90-101	Public Counsel/ Staff	1990	UtiliCorp United Corporate Structure/ Diversification
City Gas Company	Florida	PSC	891175-GU	Public Counsel	1990	Rate Base, Operating Income, Acquisition Adjustment
Capital City Water Company	Missouri	PSC	WR-90-118	Jefferson City	1991	Rehearing - Water Storage Contract
Southwestern Bell Telephone Company	Oklahoma	OCC	PUD-000662	Attorney General	1991	Rate Base, Operating Income
Public Service of New Mexico	New Mexico	PSC	2437	USEA	1992	Franchise Taxes
Citizens Utilities Company	Arizona	ACC	ER-1032-92-073	Staff	1992 1993	Rate Base, Operating Income
Missouri Public Service Company	Missouri	PSC	ER-93-37	Staff	1993	Accounting Authority Order
Public Service Company of Oklahoma	Oklahoma	OCC	PUD-1342	Staff	1993	Rate Base, Operating Income, Acquisition Adjustment
Hawaiian Electric Company	Hawaii	PUC	7700	Consumer Advocate	1993	Rate Base, Operating Income
US West Communications	Washington	WUTC	UT-930074, 0307	Public Counsel/ TRACER	1994	Sharing Plan Modifications
US West Communications	Arizona	ACC	E-1051-93-183	Staff	1994	Rate Base, Operating Income
PSI Energy, Inc.	Indiana	IURC	39584	Consumer Counselor	1994	Operating Income, Capital Structure
Arkla, Division of NORAM Energy	Oklahoma	OCC	PUD-940000354	Attorney General	1994	Rate Base, Operating Income
Kauai Electric Division of Citizens Utilities Company	Hawaii	PUC	94-0097	Consumer Advocate	1995	Hurricane Iniki Storm Damage Restoration

STEVEN C. CARVER
Summary of Previously Filed Testimony
1978 through 2012

Utility	Jurisdiction	Agency	Docket/Case Number	Party Represented	Year	Areas Addressed
Oklahoma Natural Gas Company	Oklahoma	OCC	PUD-940000477	Attorney General	1995	Rate Base, Operating Income
US West Communications	Washington	WUTC	UT-950200	Attorney General/ TRACER	1995	Rate Base, Operating Income
PSI Energy, Inc.	Indiana	IURC	40003	Consumer Counselor	1995	Rate Base, Operating Income
GTE Hawaiian Tel; Kauai Electric - Citizens Utilities Co.; Hawaiian Electric Co.; Hawaii Electric Light Co.; Maui Electric Company	Hawaii	PUC	95-0051	Consumer Advocate	1996	Self-Insured Property Damage Reserve
GTE Hawaiian Telephone Co., Inc.	Hawaii	PUC	94-0298	Consumer Advocate	1996	Rate Base, Operating Income
Oklahoma Gas and Electric Company	Oklahoma	OCC	PUD-960000116	Attorney General	1996	Rate Base, Operating Income
Public Service Company	Oklahoma	OCC	PUD-0000214	Attorney General	1997	Rate Base, Operating Income
Arizona Telephone Company (TDS)	Arizona	ACC	U-2063-97-329	Staff	1997	Rate Base, Operating Income, Affiliate Transactions
US West Communications	Utah	UPSC	97-049-08	Committee of Consumer Services	1997	Rate Base, Operating Income
Missouri Gas Energy	Missouri	PSC	GR-98-140	Public Counsel	1998	Revenues, Uncollectibles
Sierra Pacific Power Company	Nevada	PUCN	98-4062 98-4063	Utility Consumers Advocate	1999	Sharing Plan
Hawaii Electric Light Co., PPA (Encogen)	Hawaii	PUC	98-0013	Consumer Advocate	1999	Keahole CT-4/CT-5 AFUDC, Avoided Cost
Kansas City Power & Light Company	Missouri	MoPSC	EC-99-553	GST Steel Company	1999	Complaint Investigation
US West Communications	New Mexico	NM PRC	3008	PRC Staff	2000	Rate Base, Operating Income
Hawaii Electric Light Company	Hawaii	PUC	99-0207	Consumer Advocate	2000	Keahole pre-PSD Common Facilities

STEVEN C. CARVER
Summary of Previously Filed Testimony
1978 through 2012

Utility	Jurisdiction	Agency	Docket/Case Number	Party Represented	Year	Areas Addressed
US West/ Qwest Communications	Arizona	ACC	T-1051B-99-105	Staff	2000	Rate Base, Operating Income
The Gas Company	Hawaii	PUC	00-0309	Consumer Advocate	2001	Rate Base, Operating Income, Nonreg Svcs.
Craw-Kan Telephone Cooperative, Inc.	Kansas	KCC	01-CRKT-713-AUD	KCC Staff	2001	Rate Base, Operating Income
Home Telephone Company, Inc.	Kansas	KCC	02-HOMT-209-AUD	KCC Staff	2002	Rate Base, Operating Income
Wilson Telephone Company, Inc.	Kansas	KCC	02-WLST-210-AUD	KCC Staff	2002	Rate Base, Operating Income
SBC Pacific Bell	California	PUC	01-09-001 / 01-09-002	Office of Ratepayer Advocate	2002	New Regulatory Framework / Earnings Sharing Investigation
JBN Telephone Company	Kansas	KCC	02-JBNT-846-AUD	KCC Staff	2002	Rate Base, Operating Income
Kerman Telephone Company	California	PUC	02-01-004	Office of Ratepayer Advocate	2002	General Rate Case, Affiliate Lease, Nonregulated Transactions
S&A Telephone Company	Kansas	KCC	03-S&AT-160-AUD	KCC Staff	2003	Rate Base, Operating Income, Nonreg Alloc
PSI Energy, Inc.	Indiana	IURC	42359	Consumer Counselor	2003	Rate Base, Operating Income, Nonreg Alloc
Arizona Public Service Company	Arizona	ACC	E-10345A-03-0437	ACC Staff	2004	Rate Base, Operating Income
Qwest Corporation	Arizona	ACC	T-01051B-03-0454 & T-00000D-00-0672	ACC Staff	2004	Rate Base, Operating Income, Nonreg Alloc
Verizon Northwest Inc.	Washington	WUTC	UT-040788	Attorney General/ AARP/ WeBTEC	2004	Rate Base, Operating Income
Public Service Company	Oklahoma	OCC	PUD-200300076	Attorney General	2005	Operating Income
Hawaiian Electric Company	Hawaii	PUC	04-0113	Consumer Advocate	2005	Rate Base, Operating Income
Citizens Gas & Coke Utility	Indiana	IURC	42767	Consumer Counselor	2005	Operating Income, Benchmarking Study
AmerenUE d/b/a Union Electric Co.	Missouri	MoPSC	ER-2007-0002	State of Missouri	2006	Revenue Requirement

STEVEN C. CARVER
Summary of Previously Filed Testimony
1978 through 2012

Utility	Jurisdiction	Agency	Docket/Case Number	Party Represented	Year	Areas Addressed
Hawaii Electric Light Company	Hawaii	PUC	05-0315	Consumer Advocate	2007	Rate Base, Operating Income & Keahole Units
Hawaii Electric Company	Hawaii	PUC	2006-0386	Consumer Advocate	2007	Rate Base, Operating Income
Maui Electric Company	Hawaii	PUC	2006-0387	Consumer Advocate	2007	Rate Base, Operating Income
Trigen-Kansas City Energy Corp.	Missouri	MoPSC	HR-2008-0300	Trigen-KC	2008	Revenue Requirement
Southwestern Public Service	Texas	PUCT	35763	Alliance of Xcel Muni.	2008	Rate Base, Operating Income
The Gas Company, LLC	Hawaii	PUC	2008-0081	Consumer Advocate	2009	Rate Base, Operating Income, Nonutility
Hawaiian Electric Company	Hawaii	PUC	2008-0083	Consumer Advocate	2009	Rate Base, Operating Income
Southwestern Public Service	Texas	PUCT	37135	Alliance of Xcel Muni.	2009	Transmission Cost Recovery Factor
Maui Electric Company	Hawaii	PUC	2009-0163	Consumer Advocate	2010	Rate Base, Operating Income
Hawaii Electric Light Company	Hawaii	PUC	2009-0164	Consumer Advocate	2010	Rate Base, Operating Income
Atmos Pipeline – Texas	Texas	RRC	10000	Atmos Texas Municipalities	2010	Rate Base, Operating Income
AmerenUE d/b/a Ameren Missouri	Missouri	MoPSC	ER-2011-0028	Missouri Industrial Energy Consumers	2011	Revenue Requirement
Veolia Energy Kansas City	Missouri	MoPSC	HR-2011-0241	Veolia-KC	2011	Revenue Requirement
Hawaiian Electric Company	Hawaii	PUC	2010-0080	Consumer Advocate	2011	Rate Base, Operating Income
Maui Electric Company	Hawaii	PUC	2011-0092	Consumer Advocate	2012	Rate Base, Operating Income
AmerenUE d/b/a Ameren Missouri	Missouri	MoPSC	ER-2012-0166	Missouri Industrial Energy Consumers	2012	Revenue Requirement
Atmos Energy, Mid-Tex Division	Texas	RRC	10170	Atmos Texas Municipalities	2012	Rate Base, Operating Income
Atmos Energy, West Texas Division	Texas	RRC	10174	Lubbock, Amarillo, Channing & Dalhart	2012	Rate Base, Operating Income

Testimony Outline of Steven C. Carver, Vice President, Utilitech, Inc.
Senate Bill 207 “Electric Infrastructure Surcharge”
Senate Commerce Committee
February 5, 2013

Good afternoon. My name is Steven C. Carver, Vice President of Utilitech, Inc. My business address is PO Box 481934, Kansas City, MO 64148-1934.

As a member of the firm for the past 25 years, I have provided regulatory consulting services to various State regulatory commissions, consumer advocates and customer groups. Prior to joining the firm in 1987, I was employed by the Missouri Public Service Commission for 10 years, including over 4 years as Chief Accountant. In addition to my duties as Chief Accountant, I was also Project Manager of the PSC Staff’s audits of the construction costs of the Callaway and Wolf Creek nuclear generating stations. Over the years, I have been involved either directly or in a supervisory capacity in the rate cases filed by the major electric utilities in the State of Missouri.

I am appearing here today on behalf of the Missouri Retailers Association.

The message I bring you is that the regulatory framework applied to electric utilities in Missouri is not broken, achieves a reasonable balance between the interests of utilities and their customers and should not be liberalized in the way proposed in SB 207. This proposed legislation would benefit only utility shareholders while producing significantly higher rates and no benefits to electric consumers.

- SB 207 is composed of two elements that are designed to increase the earnings of Missouri electric utilities between rate cases:
 1. A cash surcharge on customer bills for new plant investments and
 2. A deferral accounting mechanism allowing for variances in expenses to be set aside for future recovery from customers in the next rate case.
- Both elements are detrimental to ratepayer interests, because they
 - will not result in reasonable rates,
 - do represent piecemeal ratemaking,
 - fail to balance ratepayer and utility interests and
 - remove nearly all of any remaining incentive for utility management to control costs.
- SB 207 is a solution for a problem that does not currently exist – Missouri regulation is not broken.

- Electric utilities have been in the dual business of (i) operating and maintaining their facilities and equipment and (ii) procuring, designing and constructing capital additions to infrastructure for many decades. There is no new or unique recent event that has materially changed the construction part of the utility business.
- The number of electric rate filings and the length of time between rate cases generally mirror conditions in the general economy – during periods of recession or economic challenges, major utilities tend to file more frequent rate cases as compared to periods when the economy is on solid footing.
 - During the recent recession and recovery period, the Missouri electric utilities (and Ameren Missouri specifically) have not been at all hesitant to file for rate relief.
 - In fact since 2007, Ameren Missouri has filed 5 rate cases on an average filing interval of about 17 months, resulting in rate increases in excess of \$867 million.
- Under the current Missouri regulatory model, a number of steps have been implemented over the years to enhance the regulatory process in order to balance the interests of both ratepayers and the utilities:
 - Even as the frequency of rate case filings increased, the PSC has managed its workload and issued decisions within the 11-month suspension period.
 - In order to set rates based upon costs that more closely match the effective date of rates, the PSC has allowed utilities to employ a true-up process that captures all major elements of the cost of providing service within 4-5 months of the effective date of new rates.
 - The PSC has already allowed the utilities to implement specific expense tracking mechanisms (such as pension, OPEB, vegetation management and storms cost trackers) where costs are volatile and beyond the control of management.
 - The electric utilities are also allowed to recover changes in fuel and purchased energy costs through an adjustment clause, because such costs are large, volatile and largely beyond the control of utility management.
 - Utilities have been granted accounting authority orders to defer extraordinary expenses between rate cases, which the PSC then considers in a subsequent rate case, whenever the utility can justify such extraordinary treatment.
 - The PSC has even authorized post-in service construction accounting for certain major projects where the utility was unable to precisely time the completion of a rate case with the completion of the project – the Callaway and Wolf Creek nuclear units are prime examples – such an approach allows the utility to capitalize a return and depreciation expense on the newly completed plant investment for recovery from customers in future rates.

- SB 207 would establish [*Proposed Section 393.1019*] an Infrastructure System Replacement Surcharge (“ISRS”) that would allow the electric utilities to increase charges to customers twice per year between rate cases to quickly recover a return on new investment and related depreciation expense and property tax expense – **without regulatory advance approval**.
 - ISRS is not limited to projects that merely “replace” deteriorating, unsafe and obsolete facilities that jeopardize the provision of safe and adequate service, but would apply generally to most plant additions.
 - ISRS is not limited to capital projects required to address safety concerns, governmental mandates or environmental requirements.
 - ISRS does not limit qualifying investments to only those major capital projects that could materially and negatively impact the Company’s achieved returns between rate cases.
 - Rather, the only limitation involves the exclusion of revenue producing capital projects.
 - By its piecemeal nature, ISRS would distort the proper balance achieved in a general rate case and would not appear to allow any offset for the normal growth in accumulated depreciation and ADIT reserves that typically occur between rate cases. Unlike traditional rate case reviews, where both the costs that are increasing and the costs that are decreasing must be recognized, ISRS would account for only increasing costs in isolation. This is why ISRS is hopelessly piecemeal.
 - The design of SB 207 would burden ratepayers with piecemeal rate increases between rate cases that will solely benefit the utility and its shareholders.

- SB 207 would also establish [*Proposed Section 393.1110*] an expense tracking mechanism (i.e. labor, training, benefits, property insurance, contractor costs, payroll taxes and property taxes) and allow the Company to defer increases in expenses that arise between rate cases to be amortized and collected from customers over three years in a next rate case.
 - Expenses eligible for deferral would not be properly offset for any organic growth in revenues or for potentially offsetting cost reductions (e.g., interest savings arising from debt refinancing activity).
 - While items already subject to deferral accounting are naturally excluded from this expense tracker, the only stated exclusions were for officer labor costs and earnings-related incentive compensation costs historically disallowed by the PSC.
 - The expense tracking mechanism goes far beyond what has been allowed for the water and gas utilities, because the electric utilities would be granted a virtual guarantee that they will recover increasing expenses with no obligation to either explain or control such expense growth.
 - The proposed expense tracking device would completely remove any incentive for expense control by utility management, as every dollar of higher tracked expense would simply translate into higher future rates.

- No evidence has been presented in support of SB 207 that attempts to quantify any benefits to ratepayers.
 - No economic studies, breakeven analyses or discounted cash flow studies have been produced to show how ratepayers will ever receive tangible benefits from SB 207.
 - Utilities are allowed a compensatory rate of return by the Commission when their rates are set. No downward adjustment to the allowed rate of return has been proposed to recognize the reduction in risks to utilities under expense tracking and with ISRS rate increases.
 - No commitments are made to refund to ratepayers any collections enabled by SB 207 should ratepayer benefits fail to materialize.

- We should not lose sight of the fact that retail electric service must be regulated because full and fair competition does not exist. There is no free market discipline to encourage utility cost control or to establish rates that are tied to carefully regulated cost of service metrics.
 - The framework of utility regulation in Missouri is the result of decades of cumulative experience in balancing often competing interests of ratepayers and utility investors.
 - Current regulatory policies and precedent do not function in a vacuum, but are the result of weighing considerable detailed evidence in thousands of proceedings that include specific financial and operational data relevant to the determination of just and reasonable rates.
 - SB 207
 - is not supported by any detailed evidence of financial need,
 - does not allow any discretion by the PSC to consider factual evidence or to balance the interests of utilities and ratepayers
 - would distort long-standing policies to adjust utility rates based on changes in the overall cost of service and
 - eliminates important incentives for cost control by utility management.
 - Instead, SB 207 would enable rate adjustments for piecemeal changes in discrete items.
 - Electric utilities and regulators long ago entered into a “regulatory compact” allowing the utility to provide monopoly service in exchange for service oversight and price regulation.
 - *More specifically, utilities are required to provide safe and adequate service at just and reasonable rates to all qualifying customers on a non-discriminatory basis.*
 - *In return for accepting this service obligation, utilities are allowed an opportunity to recover their prudently incurred costs and a reasonable return on the investment necessary to provide utility service.*
 - In the absence of other electric companies offering utility service in the same area, there is no competitive market pressure to restrain the price the utility can

charge for the service it provides to customers. Because utilities are in a cost-plus business, it is imperative that incurred cost increases be subject to regulatory scrutiny before they become the basis for higher rates charged to customers.

- What often gets overlooked is that the PSC serves as a surrogate for competition that might otherwise impose pricing constraints in a fully competitive environment.

The PSC has the authority and responsibility to review the utility's cost of service, consider the evidence presented in a rate proceeding and issue findings as to the level of rate relief that is appropriate after considering all relevant facts and all components of the cost of providing service.

- The cost review period, often referred to as regulatory lag, between the filing of a rate case and issuance of a PSC rate order serves not only the essential role of cost review, but also exists as an incentive for the utility to control its costs:
 - Increases in the cost to serve (i.e., plant and O&M) subsequent to the last rate case will be temporarily absorbed by the utility until those costs are considered in the next rate case.
 - Decreases in the cost to serve will temporarily be retained by the utility until the next rate case, thereby increasing earnings in the interim.
 - It is poor public policy to completely eliminate regulatory lag by legislatively allowing a cost-plus electric utility industry. Regulatory lag serves to replace a small amount of the efficiency incentives that are otherwise blunted when prices are routinely based upon actual costs to serve.
 - Utility services are monopoly services...in the absence of any meaningful competitive pressure to control costs, it is essential that the cost-plus electric utility industry not be given a blank check to spend unchecked on new plant and higher expenses with a guaranteed rapid rate recovery and little regulatory scrutiny of such costs.
- One final point...in its last rate case, Ameren Missouri filed testimony requesting a Plant in Service Accounting ("PISA") mechanism – a mechanism comparable to ISRS.
 - If approved, PISA would have allowed deferral accounting authority to allow the accrual of a return on plant invested capital and depreciation on non-revenue-producing plant additions between the date when those plant additions begin serving customers until the date they are formally included in rate base in a later rate case.
 - After considering Ameren Missouri's PISA proposal following hearings on this issue, the PSC found that Ameren's proposed PISA (comparable to ISRS) was not needed for the Company to have a reasonable opportunity to earn and properly found that PISA would be bad public policy that should not be authorized. [Case No. ER-2012-0166, Report and Order at 36, issued December 12, 2012.

By supporting ISRS, Ameren Missouri is now seeking what the PSC recently determined was not needed....authority to increase its rates sooner and on a piecemeal basis for new plant investment. Under the ISRS and expense deferral proposals, any costs incurred would translate quickly into higher charges to ratepayers without regulatory oversight or consideration of offsetting cost savings or revenue growth.

I respectfully recommend the rejection of SB 207.

Thank you.



A Critique: HB 398 and SB 207

Presented on behalf of MIEC and FERAF

Prepared by Utilitech, Inc.

What is HB 398 / SB 207?

These bills are composed of two elements that will increase customer rates and the earnings of Missouri electric utilities between rate cases:

1. A cash surcharge on customer bills for new plant investments and
2. A deferral accounting mechanism allowing variances in expenses to be set aside for future recovery from customers in the next rate case.

What is the “cash surcharge”?

The cash surcharge arises from an Infrastructure System Replacement Surcharge (“ISRS”) that would allow the electric utilities to increase charges to customers twice per year between rate cases to quickly recover:

- (i) a return on new investment,
- (ii) related depreciation expense and
- (iii) property tax expense

ISRS rate increases are charged to utility customers without regulatory advance approval.




Reasons Advanced in Support of ISRS

- To earn a quicker return on new investment.
 - While intended to address regulatory lag, ISRS does not recognize decreasing costs and fails to balance the interests of the utility and the customer.
- Water and Gas utilities already have ISRS.
 - ISRS is not limited to projects that merely “replace” deteriorating, unsafe and obsolete facilities that jeopardize the provision of safe and adequate service, but apply to most plant additions including new generating units.
- Need to reform the Missouri regulatory system like other states.
 - Reform has lead to higher rates in other states – this is “progress” that Missouri does not need.



Why do the electric utilities really want ISRS?

- Ability to increase rates without filing a general rate case, where all cost and revenue changes are examined.
- Little scrutiny of the rate increases.
- Frequent rate increases boost utility earnings.



How are electric rates currently set in Missouri?

- Utility rates are set using the “rate base, rate of return” method of regulation, with careful review of all cost elements, not selected areas where costs are higher.
- Each utility decides when to file and the amount of rate increase to request – that request is supported by testimony, accounting and financial data.
- The PSC staff, public counsel and other parties participate in the review and analysis of the utility’s filed evidence, filing evidence that supports alternative recommendations.
- After considering the evidence of all parties, the PSC must balance the interests of the utility and its customers and issue a decision within 11 months.



Utility Price Regulation Is Critical

- The price charged for electric service is regulated because full and fair competition does not exist.
- There is no free market discipline or competitive pressure to encourage utility cost control or establish rates that are tied to carefully regulated cost of service metrics.
- Because utilities are in a cost-plus business, it is imperative that incurred cost increases be subject to regulatory scrutiny before they become the basis for higher rates charged to customers.



Utility Price Regulation Is Critical

- What often gets overlooked is that the PSC serves as a surrogate for competition that might otherwise impose pricing constraints in a fully competitive environment.
- Electric utilities and regulators long ago entered into a “regulatory compact” allowing the utility to provide monopoly service in exchange for service oversight and price regulation.



The “Regulatory Compact”

- Utilities are required to provide safe and adequate service at just and reasonable rates to all qualifying customers on a non-discriminatory basis.
- In return for accepting this service obligation, utilities are allowed an opportunity to recover their prudently incurred costs and a reasonable return on the investment necessary to provide utility service.



What the utilities have not said about ISRS.

- Evidence has yet to be produced showing how ratepayers will receive near-term tangible benefits from ISRS.
- Utilities are allowed a compensatory rate of return on investment by the PSC when rates are set. No downward adjustment to the allowed return has been proposed, or allowed, to recognize the reduction in risks to utilities.
- ISRS is not supported by evidence of financial need.
- ISRS does not allow PSC discretion to consider factual evidence or balance the interests of utilities & customers.
- ISRS eliminates important incentives for cost control by utility management.



ISRS Would Set Rates on a Piecemeal Basis

- Unlike traditional rate case reviews, where both the costs that are increasing and the costs that are decreasing must be recognized, ISRS would account for only increasing costs in isolation.
- By its piecemeal nature, ISRS distorts the proper balance achieved in a general rate case and would not appear to allow any offset for the normal growth in accumulated depreciation and ADIT reserves that typically occur between rate cases.
- ISRS is hopelessly piecemeal.

Piecemeal Nature of ISRS (millions)

Ameren Missouri:

Plant in Service

Dec-2011 Dec-2010 Change

\$ 13,930 \$ 13,782 \$ 148

KCP&L:

Plant in Service

\$ 7,821 \$ 7,532 \$ 289

By design, ISRS would increase rates generally based only upon the change in plant in service (about 15 cents on the dollar). In 2011, plant in service changed by \$148 million for Ameren Missouri and \$289 million for KCP&L.

Piecemeal Nature of ISRS (millions)


	<u>Dec-2011</u>	<u>Dec-2010</u>	<u>Change</u>
<u>Ameren Missouri:</u>			
Plant in Service	\$ 13,930	\$ 13,782	\$ 148
Accumulated Depreciation	(5,860)	(5,645)	(215)

Net Plant	<u>\$ 8,070</u>	<u>\$ 8,137</u>	<u>\$ (67)</u>
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<u>KCP&L:</u>			
Plant in Service	\$ 7,821	\$ 7,532	\$ 289
Accumulated Depreciation	(3,247)	(3,105)	(142)

Net Plant	<u>\$ 4,574</u>	<u>\$ 4,427</u>	<u>\$ 146</u>
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In a rate case, all relevant factors are considered. The investment in rate base would consider changes in plant in service and offsetting changes in accumulated depreciation and other items. In 2011, net plant changed by \$(67) million for Ameren Missouri and \$146 million for KCP&L.



What is the “deferral accounting mechanism”?


- The bills would establish a piecemeal expense tracking mechanism, allowing increases in expenses that arise between rate cases to be deferred and then amortized and collected from customers over three years in a next rate case.
- Expenses eligible for deferral would not be properly offset for any organic growth in revenues or for potentially offsetting cost reductions (e.g., interest savings arising from debt refinancing activity).
- The expense tracker would remove any incentive for expense control by utility management, as every dollar of higher tracked expense would simply translate into higher future rates.



Are utilities currently allowed to track certain expenses when needed?

Yes. Utilities are currently allowed to track and recover changes in certain costs that are large, volatile and beyond management's control.

- changes in fuel and purchased energy costs are recovered through an adjustment clause;
- the PSC has allowed specific expense tracking mechanisms (such as pension, other post-retirement benefits, vegetation management and storms costs);
- the PSC has granted accounting authority orders to defer extraordinary expenses between rate cases – the utility must justify such extraordinary treatment in a subsequent rate case;
- the PSC has authorized post-in service construction accounting for certain major projects when the utility was unable to precisely time the completion of a rate case with the completion of the project.



Why HB 398 / SB 207 is not needed.

- The regulatory framework applied to electric utilities in Missouri is not broken.
- The current framework achieves a reasonable balance between the interests of utilities and their customers.
- The electric utilities have failed to demonstrate any need for the liberalization of the regulatory framework in the way proposed.
- The proposed changes will not result in reasonable rates and fail to balance the interests of the utility and the ratepayers.



Closing Comments

1. Existing Missouri regulation of electric utilities by the PSC is informed, deliberate, balanced and not broken...Missouri utilities are financially healthy and don't need another way to increase rates to consumers.
2. There is no free lunch. The stimulation of utility investment above needed levels will simply result in higher rates to consumers because every new dollar spent will translate into additional rate increases.
3. Utilities are obligated under their monopoly franchise to provide safe and reliable service at reasonable, cost-based rates. If more investment is needed, they are required to invest to keep the lights on. Missouri electric utilities have continuously invested in their infrastructure and have told the PSC they are providing good service.
4. Missouri electric utilities are solidly investment grade with strong credit and access to capital. They are quite capable of continuing to invest in infrastructure without a windfall of new rate increases to stimulate new investment.
5. Excessive utility investment and needlessly higher utility rates will make Missouri businesses less competitive and will negatively impact residential and low income households.



MISSOURI SENATE

DIVISION OF RESEARCH

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H:\13BILL\0991S01M.04F

TO: Senator Kehoe
FROM: Kayla Crider, Research Analyst
DATE: March 6, 2013

Re: SS/SCS/SB 207 - Ratemaking for Public Utilities

As requested, please find attached a yellow-backed Senate Substitute for Senate Committee Substitute for Senate Bill 207 relating to ratemaking for public utilities.

This substitute differs from the committee substitute by:

- Modifying the definitions of appropriate pretax revenues, ISRS costs, and net original cost of eligible infrastructure system replacements and additions (§393.1200)
- Capping the amount of revenue that may be generated from an ISRS at 8% of an electric corporation's base revenue rather than 10% (§393.1205.1)
- Removing the provision that the PSC may consider the current property tax rates applicable to the eligible infrastructure replacements and additions when determining appropriate pretax revenue (§393.1210.4)
- Stating that if the PSC disallows an electric corporation's recovery of ISRS costs, the corporation shall credit customer's bills for the disallowed amount plus the weighted cost of capital from its last general rate proceeding (§393.1210.8)
- Providing that in an electrical corporation's next general rate proceeding the tracked regulatory assets or liabilities will be included in the determination of the corporation's revenue requirement, except for reviewing cost prudence unless the amortization exceeds 2% of the corporation's base revenue (§393.1215.2)
- Terminating the provisions of this act on August 27, 2033 unless reenacted by the General Assembly (§393.1215.5)
- Changing the word "case" to "proceeding" in several provisions

Summary

Currently, gas corporations may file a petition with the Public Service Commission (PSC) for rate adjustments to recover costs incurred for infrastructure replacement projects. This act allows electrical corporations to follow a similar process to recover costs for infrastructure replacement projects. The types of costs that can be recovered include certain work on electric plants, certain capital projects undertaken to comply with environmental or safety regulations, and costs of facilities relocation due to public works projects.

This act extends the definition of appropriate pretax revenues to the revenues necessary to produce an operating income equal to the electric corporation's weighted cost of capital multiplied ISRS costs, and by the sum of the original cost of eligible infrastructure system replacements minus deferred income taxes. Additionally, appropriate pretax revenues also refers to revenues necessary to produce an operating income equal to an annualized level of depreciation expense on infrastructure system replacements and additions net of retirements since the most recent general rate proceeding, and an annualized amortization expense on ISRS costs. Further, ISRS costs include the original cost of all eligible infrastructure system replacements and additions that were placed in service since the corporation's most recent rate proceeding, minus retirements, multiplied by the weighted average depreciation rate. ISRS costs may take other calculations into account as set forth in this act.

This act details the process that an electric corporation and the PSC must follow in reviewing applications for infrastructure system replacement surcharges. If surcharges are approved by the PSC, this act requires electric corporations to submit to the Commission a reconciliation noting the differences between infrastructure system replacement revenues and appropriate pretax revenues. Additionally, this act modifies the amount of revenues that may be produced from an infrastructure system replacement from no less than one million dollars or half of 1% of the corporation's base revenue and no more than 8% of the corporation's base revenue. While the electric corporation is collecting an infrastructure system replacement surcharge, they may only adjust the rate two times every twelve months. If an electric corporation files a petition or change to an infrastructure system replacement surcharge, it shall not be considered an increase in the electric corporation's base rate. In reviewing a corporation's application for an ISRS, the PSC may use the current depreciation rates applicable to the eligible infrastructure system replacements and additions in determining appropriate pretax revenues.

If the PSC disallows, during a general rate proceeding, the recovery of costs associated with an ISRS, this act states that the corporation shall credit customer bills with interest. Credits may be given over a period no longer than 6 months, and shall be allocated to each rate class in proportion to the ISRS charges applicable to that rate class. In addition, each customer in the same rate class must get the same amount of credit, and each credit must be shown as a separate line item on the customer's bill.

This act requires that electric corporations track noncapitalized costs, as well as the sum of costs incurred or allocated to the electrical corporation. Assets and liabilities will be included in the corporation's next general rate proceeding to determine the corporation's revenue requirement, except for a review of the prudence of costs included as an asset unless the amount exceeds 2% of the corporation's base revenue. In the case that the amount exceeds 2% of the corporation's base revenue, the annual amortization will be reduced to 2%.

This act will expire on August 27, 2033, unless reenacted by the General Assembly.

SENATE SUBSTITUTE
FOR
SENATE COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 207

AN ACT

To amend chapter 393, RSMo, by adding thereto four new sections relating to ratemaking for public utilities.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI,
AS FOLLOWS:

1 Section A. Chapter 393, RSMo, is amended by adding thereto
2 four new sections, to be known as sections 393.1200, 393.1205,
3 393.1210, and 393.1215, to read as follows:

4 393.1200. As used in sections 393.1200 to 393.1215, the
5 following terms mean:

6 (1) "Appropriate pretax revenues", the revenues necessary
7 to produce net operating income equal to:

8 (a) The electrical corporation's weighted cost of capital
9 multiplied by the sum of the net original cost of eligible
10 infrastructure system replacements and additions less associated
11 plant-related accumulated deferred income taxes in compliance
12 with normalization requirements of federal tax law, and ISRS
13 costs;

14 (b) State, federal, and local income or excise taxes
15 applicable to such income; and

16 (c) An annualized level of depreciation expense on the
17 eligible infrastructure system replacements and additions net of

1 retirements occurring since the date through which rate base
2 additions were accounted for in developing the revenue
3 requirement in the electrical corporation's most recently
4 concluded general rate proceeding or in developing the electrical
5 corporation's last ISRS, and an annualized level of amortization
6 expense on the ISRS costs;

7 (2) "Commission", the Missouri public service commission;

8 (3) "Electric corporation", shall have the same meaning as
9 in subdivision (15) of section 386.020;

10 (4) "Electric utility plant projects", consist of the
11 following:

12 (a) Electric plant, as defined in subdivision (14) of
13 section 386.020, excluding newly constructed or newly acquired
14 electric generating plants and administrative office buildings
15 and their furnishings;

16 (b) If not being recovered in a rate schedule authorized by
17 subsection 2 of section 386.266, the costs of capital projects
18 undertaken to comply with federal, state, or local environmental
19 or safety statutes, ordinances, or regulations; and

20 (c) The costs of facilities relocations required due to
21 construction or improvement of a highway, road, street, public
22 way, or other public work by or on behalf of the United States,
23 this state, a political subdivision of this state, or another
24 entity having the power of eminent domain provided that the costs
25 related to such projects have not been reimbursed to the
26 electrical corporation;

27 (5) "Eligible infrastructure system replacements and
28 additions", electric utility plant projects that:

1 (a) Do not increase revenues by directly connecting the
2 infrastructure replacement or addition to new customers;

3 (b) Are in service and used and useful;

4 (c) Were not included in the electrical corporation's rate
5 base in its most recently concluded general rate proceeding; and

6 (d) Replace or extend the useful life of existing
7 infrastructure or are for additional infrastructure;

8 (6) "ISRS", infrastructure system replacement surcharge;

9 (7) "ISRS costs":

10 (a) The original cost of eligible infrastructure system
11 replacements and additions that were placed in service and became
12 used and useful since the date through which rate base additions
13 were accounted for in developing the revenue requirement in the
14 electrical corporation's most recently concluded general rate
15 proceeding or in developing the electrical corporation's last
16 ISRS, less the retirements during the same period, multiplied by
17 the applicable weighted average depreciation rate;

18 (b) "ISRS costs" also include the amount calculated under
19 paragraph (a) of this subdivision less changes in the electrical
20 corporation's accumulated depreciation reserve since the date
21 through which rate base additions were accounted for in
22 developing the revenue requirement in the electrical
23 corporation's most recently concluded general rate proceeding or
24 in developing the electrical corporation's last ISRS, multiplied
25 by the electrical corporation's weighted cost of capital used to
26 determine the appropriate pretax revenues, plus applicable state,
27 federal, and local income or excise taxes.

1 The sum of the amounts determined by paragraph (a) of this
2 subdivision, and the amount determined in paragraph (b) of this
3 subdivision shall be deferred on the electrical corporation's
4 books as a regulatory asset or regulatory liability between the
5 time the eligible infrastructure system replacements and
6 additions were placed in service and the effective date of an
7 ISRS rate schedule reflecting the deferred depreciation and
8 return;

9 (8) "ISRS revenues", revenues produced through an ISRS
10 exclusive of revenues from all other rates and charges;

11 (9) "Net original cost of eligible infrastructure system
12 replacements and additions", the original cost of the eligible
13 infrastructure system replacements and additions net of
14 accumulated depreciation on the eligible infrastructure system
15 replacements and additions, offset by depreciation expense
16 accrued on plant included in rate base in the electrical
17 corporation's most recently concluded general rate proceeding
18 since the effective date of rates developed in that proceeding,
19 and plant retirements and accumulated depreciation reserve
20 associated with such retirements for retirements recorded after
21 the date through which rate base additions were accounted for in
22 developing the commission-approved revenue requirement in that
23 general rate proceeding.

24 393.1205. 1. Notwithstanding any provisions of chapter 386
25 or this chapter to the contrary, beginning August 28, 2013, an
26 electrical corporation providing electric service may file a
27 petition and proposed rate schedules with the commission to
28 establish or change ISRS rate schedules that will allow for the

1 adjustment of the electrical corporation's rates and charges to
2 provide for the recovery of costs for eligible infrastructure
3 system replacements and additions. The commission may not
4 approve an ISRS to the extent it would produce total annualized
5 ISRS revenues below the lesser of one million dollars or one-half
6 of one percent of the electrical corporation's base revenue level
7 approved by the commission in the electrical corporation's most
8 recent general rate proceeding. The commission may not approve
9 an ISRS to the extent it would produce total annualized ISRS
10 revenues exceeding eight percent of the electrical corporation's
11 base revenue level approved by the commission in the electrical
12 corporation's most recent general rate proceeding. An ISRS and
13 any future changes thereto shall be calculated and implemented in
14 accordance with the provisions of sections 393.1200 to 393.1210.

15 2. The commission shall not approve an ISRS for any
16 electrical corporation that has not had a general rate proceeding
17 decided or dismissed by issuance of a commission order within the
18 past three years, unless the electrical corporation has filed for
19 or is the subject of a new general rate proceeding.

20 3. In no event shall an electrical corporation collect an
21 ISRS for a period exceeding three years unless the electrical
22 corporation has filed for or is the subject of a new general rate
23 proceeding; provided that the ISRS may be collected until the
24 effective date of new rate schedules established as a result of
25 the new general rate proceeding, or until the subject general
26 rate proceeding is otherwise decided or dismissed by issuance of
27 a commission order without new rates being established. An
28 electrical corporation shall be permitted to establish or change

1 ISRS rate schedules during the pendency of a general rate
2 proceeding so long as the establishment or change in the ISRS
3 rate schedules takes effect on or before the date through which
4 rate base additions were accounted for in developing the
5 commission-approved revenue requirement in that general rate
6 proceeding.

7 393.1210. 1. (1) At the time that an electrical
8 corporation files a petition with the commission seeking to
9 establish or change an ISRS, it shall submit proposed ISRS rate
10 schedules and its supporting documentation regarding the
11 calculation of the proposed ISRS with the petition, and shall
12 serve the office of the public counsel with a copy of its
13 petition, its proposed rate schedules, and its supporting
14 documentation.

15 (2) Upon the filing of a petition, and any associated rate
16 schedules, seeking to establish or change an ISRS, the commission
17 shall publish notice of the filing.

18 2. (1) When a petition, along with any associated proposed
19 rate schedules, is filed pursuant to the provisions of sections
20 393.1200 to 393.1210, the commission shall conduct an examination
21 of the proposed ISRS.

22 (2) The staff of the commission may examine information of
23 the electrical corporation to confirm that the underlying costs
24 are in accordance with the provisions of sections 393.1200 to
25 393.1210, and to confirm proper calculation of the proposed
26 charge, and may submit a report regarding its examination to the
27 commission not later than ninety days after the petition is
28 filed. No other revenue requirement or ratemaking issues may be

1 examined in consideration of the petition or associated proposed
2 rate schedules filed pursuant to the provisions of sections
3 393.1200 to 393.1210.

4 (3) The commission may hold a hearing on the petition and
5 any associated rate schedules and shall issue an order to become
6 effective not later than one hundred fifty days after the
7 petition is filed.

8 (4) If the commission finds that a petition complies with
9 the requirements of sections 393.1200 to 393.1210, the commission
10 shall enter an order authorizing the corporation to impose an
11 ISRS that is sufficient to recover appropriate pretax revenue, as
12 determined by the commission pursuant to the provisions of
13 sections 393.1200 to 393.1210.

14 3. An electrical corporation may effectuate a change in its
15 rate pursuant to the provisions of this section no more often
16 than two times every twelve months.

17 4. In determining the appropriate pretax revenue, the
18 commission shall consider only the following factors:

19 (1) The current state, federal, and local income tax or
20 excise rates;

21 (2) The electrical corporation's actual regulatory capital
22 structure as determined during the most recent general rate
23 proceeding of the electrical corporation;

24 (3) The actual cost rates for the electrical corporation's
25 debt and preferred stock as determined during the most recent
26 general rate proceeding of the electrical corporation;

27 (4) The electrical corporation's cost of common equity as
28 determined during the most recent general rate proceeding of the

1 electrical corporation;

2 (5) The current depreciation rates applicable to the
3 eligible infrastructure system replacements and additions;

4 (6) In the event information pursuant to subdivisions (2),
5 (3), and (4) of this subsection is unavailable and the commission
6 is not provided with such information on an agreed-upon basis,
7 the commission shall refer to the testimony submitted during the
8 most recent general rate proceeding of the electrical corporation
9 and use, in lieu of any such unavailable information, the
10 recommended capital structure, recommended cost rates for debt
11 and preferred stock, and recommended cost of common equity that
12 would produce the average weighted cost of capital based upon the
13 various recommendations contained in such testimony.

14 5. (1) The monthly ISRS charge may be calculated based on
15 a reasonable estimate of billing units in the period in which the
16 charge will be in effect, which shall be conclusively established
17 by dividing the appropriate pretax revenues by the customer
18 numbers reported by the electrical corporation in the annual
19 report it most recently filed with the commission pursuant to
20 subdivision (6) of section 393.140, and then further dividing
21 this quotient by twelve. Provided, however, that the monthly
22 ISRS may vary according to customer class and may be calculated
23 based on customer numbers as determined during the most recent
24 general rate proceeding of the electrical corporation so long as
25 the monthly ISRS for each customer class maintains a proportional
26 relationship equivalent to the proportional relationship of the
27 monthly customer charge for each customer class.

28 (2) At the end of each twelve-month calendar period the

1 ISRS is in effect, the electrical corporation shall reconcile the
2 differences between the revenues resulting from an ISRS and the
3 appropriate pretax revenues as found by the commission for that
4 period and shall submit the reconciliation and a proposed ISRS
5 adjustment to the commission for approval to recover or refund
6 the difference, as appropriate, through adjustments of an ISRS
7 charge.

8 6. (1) An electrical corporation that has implemented an
9 ISRS pursuant to the provisions of sections 393.1200 to 393.1210
10 shall file revised rate schedules to reset the ISRS to zero when
11 new base rates and charges become effective for the electrical
12 corporation following a commission order establishing customer
13 rates in a general rate proceeding that incorporates in the
14 utility's base rates subject to subsections 8 and 9 of this
15 section eligible costs previously reflected in an ISRS.

16 (2) Upon the inclusion in an electrical corporation's base
17 rates subject to subsections 8 and 9 of this section of eligible
18 costs previously reflected in an ISRS, the electrical corporation
19 shall immediately thereafter reconcile any previously
20 unreconciled ISRS revenues as necessary to ensure that revenues
21 resulting from the ISRS match as closely as possible the
22 appropriate pretax revenues as found by the commission for that
23 period.

24 7. An electrical corporation's filing of a petition or
25 change to an ISRS pursuant to the provisions of sections 393.1200
26 to 393.1210 shall not be considered a request for a general
27 increase in the electrical corporation's base rates and charges.

28 8. Commission approval of a petition, and any associated

1 rate schedules, to establish or change an ISRS pursuant to the
2 provisions of sections 393.1200 to 393.1210 shall in no way be
3 binding upon the commission in determining the ratemaking
4 treatment to be applied to eligible infrastructure system
5 replacements and additions during a subsequent general rate
6 proceeding when the commission may undertake to review the
7 prudence of such costs. In the event the commission disallows,
8 during a subsequent general rate proceeding, recovery of costs
9 associated with eligible infrastructure system replacements and
10 additions previously included in an ISRS, the electrical
11 corporation shall credit the bills of its customers as of the
12 time the credit is being given for the disallowed amount, plus
13 interest at the electrical corporation's weighted cost of capital
14 from its last general rate proceeding, over a period of no longer
15 than six months. Credits shall be allocated to each rate class
16 in proportion to the ISRS charges applicable to that rate class
17 during the period when the overcollections occurred. Each
18 customer in a given rate class shall receive the same credit, and
19 each credit shall be shown as a separate line item on customers'
20 bills.

21 9. Nothing in this section shall be construed as limiting
22 the authority of the commission to review and consider
23 infrastructure system replacement and addition costs along with
24 other costs during any general rate proceeding of any electrical
25 corporation.

26 10. Nothing contained in sections 393.1200 to 393.1210
27 shall be construed to impair in any way the authority of the
28 commission to review the reasonableness of the rates or charges

1 of an electrical corporation, including review of the prudence of
2 eligible infrastructure system replacements and additions made by
3 an electrical corporation, pursuant to the provisions of section
4 386.390.

5 11. The commission shall have the authority to promulgate
6 rules for the implementation of this section, but only to the
7 extent such rules are consistent with, and do not delay the
8 implementation of, the provisions of this section. Any rule or
9 portion of a rule, as that term is defined in section 536.010
10 that is created under the authority delegated in this section
11 shall become effective only if it complies with and is subject to
12 all of the provisions of chapter 536, and, if applicable, section
13 536.028. This section and chapter 536 are nonseverable and if any
14 of the powers vested with the general assembly pursuant to
15 chapter 536 to review, to delay the effective date, or to
16 disapprove and annul a rule are subsequently held
17 unconstitutional, then the grant of rulemaking authority and any
18 rule proposed or adopted after August 28, 2013, shall be invalid
19 and void.

20 393.1215. 1. Notwithstanding any provision of chapter 386
21 or this chapter to the contrary, any electrical corporation that
22 has had a general rate proceeding decided or dismissed by
23 issuance of a commission order within the past three years shall,
24 commencing with the first day of the month following the month in
25 which this section becomes effective, implement a mechanism to
26 track the differences between the following:

27 (1) The noncapitalized costs used to set the revenue
28 requirement in that rate proceeding for the electrical

1 corporation's or its affiliate's labor, training and benefits,
2 including but not limited to workers' compensation insurance and
3 payroll taxes, transmission charges or expenses, property taxes,
4 property insurance, and for external contractors contracted by
5 the electrical corporation for the operation or maintenance of
6 the electrical corporation's transmission, distribution, or
7 generation systems; and

8 (2) The sum of those costs that are actually incurred by,
9 or allocated to, the electrical corporation as reflected on its
10 books and records in subsequent periods.

11 2. The electrical corporation shall defer any amounts
12 tracked under subsection 1 of this section on its books and
13 records as a regulatory asset or regulatory liability. In its
14 next general rate proceeding, the regulatory asset or regulatory
15 liability will be included in the determination of the electrical
16 corporation's revenue requirement through an amortization over a
17 period of three years, without any offset, reduction, or
18 adjustment based upon consideration of any other factor or
19 otherwise, except for a review of the prudence of the costs
20 included in any regulatory asset as part of the general rate
21 proceeding unless the amount of the annual amortization as of the
22 time the amortization is to occur exceeds two percent of the
23 electric corporation's base revenue level as determined by the
24 commission in the electric corporation's prior general rate
25 proceeding, in which event the annual amortization will be
26 reduced so that it equals the two percent limitation.
27 Notwithstanding the foregoing, the following costs shall not be
28 included in the electrical corporation's or its affiliate's labor

1 or benefits components of the foregoing calculation:

2 (1) Any costs included in a separate deferred accounting
3 mechanism, tracker, or rate adjustment mechanism;

4 (2) Labor costs for the electrical corporation's or the
5 electrical corporation's parent company's officers;

6 (3) That portion of the electrical corporation's labor
7 costs that consist of incentive compensation that is dependent on
8 the electrical corporation's or the electrical corporation's
9 parent company's earnings; and

10 (4) Administrative and general labor costs recorded in
11 Account 920 of the Uniform System of Accounts, or any successor
12 account, applicable to electrical corporations.

13 3. In subsequent general rate proceedings occurring after a
14 general rate proceeding where an amortization through rates of a
15 regulatory asset or regulatory liability began, any unamortized
16 balance shall be included in the electrical corporation's revenue
17 requirement through a reamortization of said balance over a
18 period of three years, also without any offset, reduction, or
19 adjustment based upon consideration of any other factor or
20 otherwise.

21 4. The commission shall have the authority to promulgate
22 rules for the implementation of this section, but only to the
23 extent such rules are consistent with, and do not delay the
24 implementation of, the provisions of this section. Any rule or
25 portion of a rule, as that term is defined in section 536.010
26 that is created under the authority delegated in this section
27 shall become effective only if it complies with and is subject to
28 all of the provisions of chapter 536, and, if applicable, section

1 536.028. This section and chapter 536 are nonseverable and if
2 any of the powers vested with the general assembly pursuant to
3 chapter 536 to review, to delay the effective date, or to
4 disapprove and annul a rule are subsequently held
5 unconstitutional, then the grant of rulemaking authority and any
6 rule proposed or adopted after August 28, 2013, shall be invalid
7 and void.

8 5. Sections 393.1200, 393.1205, 393.1210 and 393.1215 shall
9 terminate and be of no further force and effect after August 27,
10 2033, unless those sections shall be reenacted by the general
11 assembly. In the event of termination, any ISRS in effect shall
12 also terminate and be of no further force and effect after such
13 date.

HOUSE COMMITTEE SUBSTITUTE

FOR

HOUSE BILL NO. 398

AN ACT

To amend chapter 393, RSMo, by adding thereto four new sections relating to ratemaking for public utilities.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI,
AS FOLLOWS:

Section A. Chapter 393, RSMo, is amended by adding thereto four new sections, to be known as sections 393.1200, 393.1205, 393.1210, and 393.1215, to read as follows:

393.1200. As used in sections 393.1200 to 393.1215, the following terms mean:

(1) "Appropriate pretax revenues", the revenues necessary to produce net operating income equal to:

(a) The electrical corporation's weighted cost of capital multiplied by the net original cost of eligible infrastructure system replacements and additions less associated plant-related accumulated deferred income taxes in compliance with normalization requirements of federal tax law;

(b) State, federal, and local income or excise taxes applicable to such income; and

(c) All other ISRS costs;

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

(3) "Electric corporation", shall have the same meaning as in subdivision (15) of section 386.020;

(4) "Electric utility plant projects", means:

(a) Electric plant, as defined in subdivision (14) of

1 section 386.020, excluding newly constructed or newly acquired
2 electric generating plants and administrative office buildings
3 and their furnishings;

4 (b) If not being recovered in a rate schedule authorized by
5 subsection 2 of section 386.266, the costs of capital projects
6 undertaken to comply with federal, state, or local environmental
7 or safety statutes, ordinances, or regulations; and

8 (c) The costs of facilities relocations required due to
9 construction or improvement of a highway, road, street, public
10 way, or other public work by or on behalf of the United States,
11 this state, a political subdivision of this state, or another
12 entity having the power of eminent domain provided that the costs
13 related to such projects have not been reimbursed to the
14 electrical corporation;

15 (5) "Eligible infrastructure system replacements and
16 additions", electric utility plant projects that:

17 (a) Do not increase revenues by directly connecting the
18 infrastructure replacement or addition to new customers;

19 (b) Are in service and used and useful;

20 (c) Were not included in the electrical corporation's rate
21 base in its most recently concluded general rate case; and

22 (d) Replace or extend the useful life of existing
23 infrastructure or are for additional infrastructure;

24 (6) "ISRS", infrastructure system replacement surcharge;

25 (7) "ISRS costs", depreciation expense for all eligible
26 infrastructure system replacements and additions that are placed
27 in service and became used and useful since the date through
28 which rate base additions were accounted for in developing the

revenue requirement in the electrical corporation's most recently
concluded general rate case or its last ISRS filing, offset by
retirements and depreciation expenses accrued since the effective
date of rates in the electrical corporation's most recently
concluded general rate proceeding or its last ISRS filing on the
plant included in the rate base in that general rate proceeding
or included in that ISRS filing, and the return on said eligible
infrastructure system replacements and additions at the
electrical corporation's weighted cost of capital used to
determine the appropriate pretax revenues, with both the
depreciation and return to be deferred on the electrical
corporation's books between the time the eligible infrastructure
system replacements and additions were placed in service and the
effective date of an ISRS rate schedule reflecting the deferred
depreciation and return;

(8) "ISRS revenues", revenues produced through an ISRS
exclusive of revenues from all other rates and charges;

(9) "Net original cost of eligible infrastructure system
replacements and additions", the original cost of the eligible
infrastructure replacements and additions net of accumulated
depreciation on the eligible infrastructure replacements and
additions, offset by (i) depreciation expense accrued on the
plant included in the rate base in the electrical corporation's
most recently concluded general rate proceeding since the
effective date of rates developed in that proceeding, and (ii)
the original cost of plant retirements and accrued depreciation
expenses associated with such retirements for retirements
recorded after the date through which the rate base additions

1 were accounted for in developing the commission-approved revenue
2 requirement in that general rate proceeding.

3 393.1205. 1. Notwithstanding any provisions of chapter 386
4 or this chapter to the contrary, beginning August 28, 2013, an
5 electrical corporation providing electric service may file a
6 petition and proposed rate schedules with the commission to
7 establish or change ISRS rate schedules that will allow for the
8 adjustment of the electrical corporation's rates and charges to
9 provide for the recovery of costs for eligible infrastructure
10 system replacements and additions. The commission may not
11 approve an ISRS to the extent it would produce total annualized
12 ISRS revenues below the lesser of one million dollars or one-half
13 of one percent of the electrical corporation's base revenue level
14 approved by the commission in the electrical corporation's most
15 recent general rate proceeding. The commission may not approve
16 an ISRS to the extent it would produce total annualized ISRS
17 revenues exceeding eight percent of the electrical corporation's
18 base revenue level approved by the commission in the electrical
19 corporation's most recent general rate proceeding. An ISRS and
20 any future changes thereto shall be calculated and implemented in
21 accordance with the provisions of sections 393.1200 to 393.1215.
22 ISRS revenues shall be subject to a refund based upon a finding
23 and order of the commission to the extent provided in subsections
24 5 and 8 of section 393.1210.

25 2. The commission shall not approve an ISRS for any
26 electrical corporation that has not had a general rate proceeding
27 decided or dismissed by issuance of a commission order within the
28 past three years, unless the electrical corporation has filed for

or is the subject of a new general rate proceeding.

2 3. In no event shall an electrical corporation collect an
3 ISRS for a period exceeding three years unless the electrical
4 corporation has filed for or is the subject of a new general rate
5 proceeding; provided that the ISRS may be collected until the
6 effective date of new rate schedules established as a result of
7 the new general rate proceeding, or until the subject general
8 rate proceeding is otherwise decided or dismissed by issuance of
9 a commission order without new rates being established. An
10 electrical corporation shall be permitted to establish or change
11 ISRS rate schedules during the pendency of a general rate
12 proceeding so long as the establishment or change in the ISRS
13 rate schedules takes effect on or before the date through which
14 rate base additions were accounted for in developing the
15 commission-approved revenue requirement in that general rate
16 proceeding.

17 393.1210. 1. (1) No later than forty-five days prior to
18 filing a petition with the commission to establish or change an
19 ISRS, an electrical corporation shall submit to the commission a
20 preliminary list of projects costing in excess of five million
21 dollars which are to be included in the ISRS filing. The list
22 shall include a detailed description of each such project and
23 each such project's cost. At the time that an electrical
24 corporation files a petition with the commission seeking to
25 establish or change an ISRS, it shall submit proposed ISRS rate
26 schedules and its supporting documentation regarding the
27 calculation of the proposed ISRS with the petition, and shall
28 serve the office of the public counsel with a copy of its

1 petition, its proposed rate schedules, and its supporting
2 documentation.

3 (2) Upon the filing of a petition, and any associated rate
4 schedules, seeking to establish or change an ISRS, the commission
5 shall publish notice of the filing.

6 2. (1) When a petition, along with any associated proposed
7 rate schedules, is filed pursuant to the provisions of sections
8 393.1200 to 393.1215, the commission shall conduct an examination
9 of the proposed ISRS.

10 (2) The staff of the commission may examine information of
11 the electrical corporation to confirm that the underlying costs
12 are in accordance with the provisions of sections 393.1200 to
13 393.1215, and to confirm proper calculation of the proposed
14 charge, and may submit a report regarding its examination to the
15 commission not later than ninety days after the petition is
16 filed. No other revenue requirement or ratemaking issues may be
17 examined in consideration of the petition or associated proposed
18 rate schedules filed pursuant to the provisions of sections
19 393.1200 to 393.1215.

20 (3) The commission may hold a hearing on the petition and
21 any associated rate schedules and shall issue an order to become
22 effective not later than one hundred fifty days after the
23 petition is filed.

24 (4) If the commission finds that a petition complies with
25 the requirements of sections 393.1200 to 393.1215, the commission
26 shall enter an order authorizing the corporation to impose an
27 ISRS that is sufficient to recover appropriate pretax revenue, as
28 determined by the commission pursuant to the provisions of

sections 393.1200 to 393.1215.

2 3. An electrical corporation may effectuate a change in its
3 rate pursuant to the provisions of this section no more often
4 than two times every twelve months.

5 4. In determining the appropriate pretax revenue, the
6 commission shall consider only the following factors:

7 (1) The current state, federal, and local income tax or
8 excise rates;

9 (2) The electrical corporation's actual regulatory capital
10 structure as determined during the most recent general rate
11 proceeding of the electrical corporation;

12 (3) The actual cost rates for the electrical corporation's
13 debt and preferred stock as determined during the most recent
14 general rate proceeding of the electrical corporation;

15 (4) The electrical corporation's cost of common equity as
16 determined during the most recent general rate proceeding of the
17 electrical corporation;

18 (5) The current property tax rate or rates applicable to the
19 eligible infrastructure system replacements and additions;

20 (6) The current depreciation rates applicable to the
21 eligible infrastructure system replacements and additions; and

22 (7) In the event information pursuant to subdivisions (2),
23 (3), and (4) of this subsection is unavailable and the commission
24 is not provided with such information on an agreed-upon basis,
25 the commission shall refer to the testimony submitted during the
26 most recent general rate proceeding of the electrical corporation
27 and use, in lieu of any such unavailable information, the
28 recommended capital structure, recommended cost rates for debt

1 and preferred stock, and recommended cost of common equity that
2 would produce the average weighted cost of capital based upon the
3 various recommendations contained in such testimony.

4 5. (1) The monthly ISRS charge may be calculated based on a
5 reasonable estimate of billing units in the period in which the
6 charge will be in effect, which shall be conclusively established
7 by dividing the appropriate pretax revenues by the customer
8 numbers reported by the electrical corporation in the annual
9 report it most recently filed with the commission pursuant to
10 subdivision (6) of section 393.140, and then further dividing
11 this quotient by twelve. Provided, however, that the monthly
12 ISRS may vary according to customer class and may be calculated
13 based on customer numbers as determined during the most recent
14 general rate proceeding of the electrical corporation so long as
15 the monthly ISRS for each customer class maintains a proportional
16 relationship equivalent to the proportional relationship of the
17 monthly customer charge for each customer class. In any event,
18 the ISRS for any customer that has a demand level that exceeds
19 four hundred megawatts shall be set using an allocation of
20 appropriate pretax revenue based on the proportional relationship
21 of the customer charge paid by that customer to the total charges
22 paid by all customers.

23 (2) At the end of each twelve-month calendar period the ISRS
24 is in effect, the electrical corporation shall reconcile the
25 differences between the revenues resulting from an ISRS and the
26 appropriate pretax revenues as found by the commission for that
27 period and shall submit the reconciliation and a proposed ISRS
28 adjustment to the commission for approval to recover or refund

1 the difference, as appropriate, through adjustments of an ISRS
2 charge.

3 6. (1) An electrical corporation that has implemented an
4 ISRS pursuant to the provisions of sections 393.1200 to 393.1215
5 shall file revised rate schedules to reset the ISRS to zero when
6 new base rates and charges become effective for the electrical
7 corporation following a commission order establishing customer
8 rates in a general rate proceeding that incorporates in the
9 utility's base rates subject to subsections 8 and 9 of this
10 section eligible costs previously reflected in an ISRS.

11 (2) Upon the inclusion in an electrical corporation's base
12 rates subject to subsections 8 and 9 of this section of eligible
13 costs previously reflected in an ISRS, the electrical corporation
14 shall immediately thereafter reconcile any previously
15 unreconciled ISRS revenues as necessary to ensure that revenues
16 resulting from the ISRS match as closely as possible the
17 appropriate pretax revenues as found by the commission for that
18 period.

19 7. An electrical corporation's filing of a petition or
20 change to an ISRS pursuant to the provisions of sections 393.1200
21 to 393.1215 shall not be considered a request for a general
22 increase in the electrical corporation's base rates and charges.

23 8. Commission approval of a petition, and any associated
24 rate schedules, to establish or change an ISRS pursuant to the
25 provisions of sections 393.1200 to 393.1215 shall in no way be
26 binding upon the commission in determining the ratemaking
27 treatment to be applied to eligible infrastructure system
28 replacements and additions during a subsequent general rate

1 proceeding when the commission may undertake to review the
2 prudence of such costs. In the event the commission disallows,
3 during a subsequent general rate proceeding, recovery of costs
4 associated with eligible infrastructure system replacements and
5 additions previously included in an ISRS, the electrical
6 corporation shall credit the bills of its customers as of the
7 time the credit is being given for the disallowed amount, plus
8 interest at the electrical corporation's weighted cost of capital
9 from its last general rate proceeding, over a period of no longer
10 than six months. Credits shall be allocated to each rate class
11 in proportion to the ISRS charges applicable to that rate class
12 during the period when the over-collections occurred. Each
13 customer in a given rate class shall receive the same credit, and
14 each credit shall be shown as a separate line item on customers'
15 bills.

16 9. Nothing in this section shall be construed as limiting
17 the authority of the commission to review and consider
18 infrastructure system replacement and addition costs along with
19 other costs during any general rate proceeding of any electrical
20 corporation.

21 10. Nothing contained in sections 393.1200 to 393.1215
22 shall be construed to impair in any way the authority of the
23 commission to review the reasonableness of the rates or charges
24 of an electrical corporation, including review of the prudence of
25 eligible infrastructure system replacements and additions made by
26 an electrical corporation, pursuant to the provisions of section
27 386.390.

28 11. The commission shall have the authority to promulgate

1 rules for the implementation of this section, but only to the
2 extent such rules are consistent with, and do not delay the
3 implementation of, the provisions of this section. Any rule or
4 portion of a rule, as that term is defined in section 536.010
5 that is created under the authority delegated in this section
6 shall become effective only if it complies with and is subject to
7 all of the provisions of chapter 536, and, if applicable, section
8 536.028. This section and chapter 536 are nonseverable and if
9 any of the powers vested with the general assembly pursuant to
10 chapter 536 to review, to delay the effective date, or to
11 disapprove and annul a rule are subsequently held
12 unconstitutional, then the grant of rulemaking authority and any
13 rule proposed or adopted after August 28, 2013, shall be invalid
14 and void.

15 393.1215. 1. Notwithstanding any provision of chapter 386
16 or this chapter to the contrary, any electrical corporation that
17 has had a general rate proceeding decided or dismissed by
18 issuance of a commission order within the past three years shall,
19 commencing with the first day of the month following the month in
20 which this section becomes effective, implement a mechanism to
21 track the differences between the following:

22 (1) The noncapitalized costs used to set the revenue
23 requirement in that rate case for the electrical corporation's or
24 its affiliate's labor, training, benefits, including but not
25 limited to workers' compensation insurance, payroll taxes,
26 transmission charges or expenses, property taxes, property
27 insurance, and for external contractors contracted by the
28 electrical corporation for the operation or maintenance of the

1 electrical corporation's transmission, distribution, or
2 generation systems; and

3 (2) The sum of those costs that are actually incurred by, or
4 allocated to, the electrical corporation as reflected on its
5 books and records in subsequent periods.

6 2. The electrical corporation shall defer any amounts
7 tracked under subsection 1 of this section on its books and
8 records as a regulatory asset or regulatory liability. In its
9 next general rate proceeding, the regulatory asset or regulatory
10 liability will be included in the determination of the electrical
11 corporation's revenue requirement through an amortization over a
12 period of three years, without any offset, reduction, or
13 adjustment based upon consideration of any other factor or
14 otherwise, except for a review of the prudence of the costs
15 included in any regulatory asset as part of the general rate
16 proceeding unless the amount of the annual amortization as of the
17 time the amortization is to occur exceeds two percent of the
18 electrical corporation's base revenue level as determined by the
19 commission in the electrical corporation's prior general rate
20 proceeding, in which event the annual amortization will be
21 reduced so that it equals the two percent limitation.

22 Notwithstanding the foregoing, the following costs shall not be
23 included in the electrical corporation's or its affiliate's labor
24 or benefits components of the foregoing calculation:

25 (1) Any costs in a separate, deferred accounting mechanism,
26 tracker, or rate adjustment mechanism;

27 (2) Labor costs for the electrical corporation's or the
28 electrical corporation parent company's officers;

1 (3) That portion of the electrical corporation's labor costs
2 that consist of incentive compensation that is dependent on the
3 electrical corporation's or the electrical corporation's parent
4 company's earnings; and

5 (4) Administrative and general labor costs recorded in
6 Account 920 of the Uniform System of Accounts, or any successor
7 account, applicable to electrical corporations.

8 3. In subsequent general rate proceedings occurring after a
9 general rate proceeding where an amortization through rates of a
10 regulatory asset or regulatory liability began, any unamortized
11 balance shall be included in the electrical corporation's revenue
12 requirement through a reamortization of said balance over a
13 period of three years, also without any offset, reduction, or
14 adjustment based upon consideration of any other factor or
15 otherwise. The sums to be reamortized under this subsection
16 shall not count toward the two percent limitation under
17 subsection 2 of this section.

18 4. The commission shall have the authority to promulgate
19 rules for the implementation of this section, but only to the
20 extent such rules are consistent with, and do not delay the
21 implementation of, the provisions of this section. Any rule or
22 portion of a rule, as that term is defined in section 536.010
23 that is created under the authority delegated in this section
24 shall become effective only if it complies with and is subject to
25 all of the provisions of chapter 536, and, if applicable, section
26 36.028. This section and chapter 536 are nonseverable and if any
27 of the powers vested with the general assembly pursuant to
28 chapter 536 to review, to delay the effective date, or to

1 disapprove and annul a rule are subsequently held
2 unconstitutional, then the grant of rulemaking authority and any
3 rule proposed or adopted after August 28, 2013, shall be invalid
4 and void.

5 5. Section 393.1215 shall terminate and be of no further
6 force and effect after August 27, 2025, unless that section shall
7 be reenacted by the general assembly.