



OPC Exhibit No. 128  
Date 10/31/18 Reporter SM  
File No. TA 2018-0202

**MISSOURI HOUSE OF REPRESENTATIVES**  
201 WEST CAPITOL AVENUE  
JEFFERSON CITY, MISSOURI 65101

To Whom These Presents Shall Come:

I, Dana Rademan Miller, Assistant Chief Clerk of the House of Representatives of the State of Missouri, hereby certify these to be full, true copies of the Introduced version of House Bill No. 2265, the House Committee Substitute for House Bill No. 2265, and the Perfected version of House Committee Substitute for House Bill No. 2265 of the 99<sup>th</sup> General Assembly, Second Regular Session.



In Testimony Whereof, I hereunto set my hand and  
Affix the Seal of the House of Representatives of the  
State of Missouri. Done at the City of Jefferson this  
22<sup>nd</sup> Day of October, 2018.

A handwritten signature in blue ink, reading "Dana Rademan Miller", written over a horizontal line.

Assistant Chief Clerk of the House

**CAPITOL OFFICE**

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**COMMITTEE**

Ex-officio member of all committees of the House

**DISTRICT ADDRESS**

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**SPEAKER OF THE HOUSE**  
**Todd Richardson**  
State Representative  
District 152

October 15, 2018

Clerk's Office,

The Speaker hereby directs the Assistant Chief Clerk to perform certain duties of the Chief Clerk as outlined in House Rule 18 and Rule 24(2)(d) until such time that a replacement for the Chief Clerk is selected.

Sincerely,

A handwritten signature in black ink that reads "Todd Richardson".

Todd Richardson  
Speaker  
Missouri House of Representatives

cc: Representative Gina Mitten, Assistant Minority Floor Leader  
Judy Kempker, Human Resources

RECEIVED  
OCT 15 2018  
CHIEF CLERK

SECOND REGULAR SESSION

# HOUSE BILL NO. 2265

99TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE BERRY.

6103H.021

D. ADAM CRUMBLISS, Chief Clerk

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## AN ACT

To repeal section 386.390, RSMo, and to enact in lieu thereof six new sections relating to public utilities.

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

Section A. Section 386.390, RSMo, is repealed and six new sections enacted in lieu thereof, to be known as sections 386.390, 393.1275, 393.1400, 393.1640, 393.1650, and 393.1655, to read as follows:

386.390. 1. Complaint may be made by the commission of its own motion, or by the public counsel or any corporation or person, chamber of commerce, board of trade, or any civic, commercial, mercantile, traffic, agricultural or manufacturing association or organization, or any body politic or municipal corporation, by petition or complaint in writing, setting forth any act or thing done or omitted to be done by any corporation, person or public utility~~[-including any rule, regulation or charge heretofore established or fixed by or for any corporation, person or public utility,]~~ in violation, or claimed to be in violation, of any provision of law **subject to the commission's authority, [or] of any rule promulgated by the commission, of any utility tariff, or of any order or decision of the commission;** provided, that no complaint shall be entertained by the commission, except upon its own motion, as to the reasonableness of any rates or charges of any gas, electrical, water, sewer, or telephone corporation, unless the same be signed by the public counsel or the mayor or the president or chairman of the board of aldermen or a majority of the council, commission or other legislative body of any city, town, village or county, within which the alleged violation occurred, or not less than twenty-five consumers or purchasers, or prospective consumers or purchasers, of such gas, electricity, water, sewer or telephone service.

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

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

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

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

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

**393.1275. 1. For purposes of this section, the following terms shall mean:**

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

3           (2) "Cyber and physical security expense", operations and maintenance expense  
4 incurred to protect the reliability and security of systems, software, equipment, and  
5 facilities connected to or controlling the electric system against physical or cyber-security  
6 threats including, but not limited to, generating stations, substations, and control centers;

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

9           (4) "Rate base cutoff date", the date rate base additions are accounted for in a  
10 general rate proceeding. In the absence of a commission order that specifies the rate base  
11 cutoff date, such date as reflected in any jointly proposed procedural schedule submitted  
12 by the parties in the applicable general rate proceeding, or as otherwise agreed to by such  
13 parties, shall be used.

14           2. On and after the date an electrical corporation files a notice under subsection 4  
15 of this section, the electrical corporation shall defer to a regulatory asset or liability  
16 account any difference in the prudently incurred uncapitalized state and local property  
17 taxes actually incurred, and the uncapitalized state and local property taxes used to  
18 determine the electrical corporation's revenue requirement in its most recently completed  
19 general rate proceeding. If the notice filed under subsection 4 of this section is filed on a  
20 day other than January first, the dollar amount of taxes to be deferred for the calendar

21 year during which such notice was given shall be equal to such difference multiplied by a  
22 fraction, the numerator of which is the number of days remaining in that calendar year  
23 after the date such notice is filed, and the denominator of which is the number of calendar  
24 days in that year. Such taxes used to determine the electrical corporation's revenue  
25 requirement in its last general rate proceeding shall be the amount of such taxes recorded  
26 on the electrical corporation's books for the twelve months ending on the rate base cutoff  
27 date in the electrical corporation's most recently completed general rate proceeding unless  
28 a different amount was used to set such revenue requirement as determined by the  
29 commission in its order resolving such proceeding or through a commission order  
30 approving a settlement respecting such taxes. The regulatory asset or liability account  
31 balances shall be included in the retail revenue requirement used to set rates through an  
32 amortization over a reasonable period in such corporation's subsequent general rate  
33 proceedings, without any offset, reduction, or adjustment based on consideration of any  
34 other factor. The commission shall also adjust the rate base used to establish the retail  
35 revenue requirement of such corporation to reflect the unamortized regulatory asset or  
36 liability account balances in such general rate proceedings.

37       3. On and after the effective date of rates in an electrical corporation's next general  
38 rate proceeding concluding after the effective date of this section, an electrical corporation  
39 that has filed a notice under subsection 4 of this section shall defer to a regulatory asset or  
40 liability account any difference in the prudently incurred cyber and physical security  
41 expense actually incurred and the cyber and physical security expense for such protection  
42 used to determine the electrical corporation's revenue requirement in its most recently  
43 completed general rate proceeding, provided that the commission shall ensure that such  
44 difference to be included in the regulatory asset or liability does not include costs that were  
45 included in the sums used to determine the electrical corporation's revenue requirement  
46 upon which its base rates are set in a general rate proceeding. The regulatory asset or  
47 liability account balances shall be included in the retail revenue requirement used to set  
48 rates through an amortization over a reasonable period in such corporation's subsequent  
49 general rate proceedings, without any offset, reduction, or adjustment based on  
50 consideration of any other factor. The commission shall also adjust the rate base used to  
51 establish the retail revenue requirement of such corporation to reflect the unamortized  
52 regulatory asset or liability account balances in such general rate proceedings.

53       4. This section shall only apply to an electrical corporation that has filed a notice  
54 with the commission of the electrical corporation's election to make the deferrals for which  
55 this section provides.

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

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

3 (2) "Electrical corporation", the same as defined in section 386.020, but shall not  
4 include an electrical corporation as described in subsection 2 of section 393.110;

5 (3) "Qualifying electric plant", all rate base additions, except rate base additions  
6 for new coal-fired generating units, new nuclear generating units, or rate base additions  
7 that increase revenues by allowing service to new customer premises;

8 (4) "Rate base cutoff date", the date rate base additions are accounted for in a  
9 general rate proceeding. In the absence of a commission order that specifies the rate base  
10 cutoff date, such date as reflected in any jointly proposed procedural schedule submitted  
11 by the parties in the applicable general rate proceeding, or as otherwise agreed to by such  
12 parties, shall be used;

13 (5) "Weighted average cost of capital", the return on rate base used to determine  
14 the revenue requirement in the electrical corporation's most recently completed general  
15 rate proceeding; provided that in the absence of a commission determination of the return  
16 on rate base within the three-year period prior to the effective date of this section, the  
17 weighted average cost of capital shall be determined using the electrical corporation's  
18 actual capital structure as of December 31, 2017, excluding short-term debt, the electrical  
19 corporation's actual cost of long-term debt and preferred stock as of December 31, 2017,  
20 and a cost of common equity of nine and one-half percent.

21 2. (1) Notwithstanding any other provision of chapter 393 to the contrary,  
22 electrical corporations shall defer to a regulatory asset all depreciation expense and return  
23 associated with all qualifying electric plant recorded to plant-in-service on the utility's  
24 books commencing on or after the effective date of this section if the electrical corporation  
25 has made the election provided for by subsection 5 of this section by that date, or on the  
26 date such election is made if the election is made after the effective date of this section. In  
27 each general rate proceeding concluded after the effective date of this section, the balance  
28 of the regulatory asset as of the rate base cutoff date shall be included in the electrical  
29 corporation's rate base without any offset, reduction, or adjustment based upon  
30 consideration of any other factor, other than as provided for in subdivision (2) of this  
31 subsection, with the regulatory asset balance arising from deferrals associated with  
32 qualifying electric plant placed in service after the rate base cutoff date to be included in  
33 rate base in the next general rate proceeding. The expiration of this section shall not affect  
34 the continued inclusion in rate base and amortization of regulatory asset balances that  
35 arose under this section prior to such expiration.

36 (2) The regulatory asset balances arising under this section shall be adjusted to  
37 reflect any prudence disallowances ordered by the commission. The provisions of this

38 section shall not be construed to affect existing law respecting the burdens of production  
39 and persuasion in general rate proceedings for rate base additions.

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

46 3. (1) Depreciation expense deferred under this section shall account for all  
47 qualifying electric plant placed into service less retirements of plant replaced by such  
48 qualifying electric plant;

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

55 4. Beginning February 28, 2019, and by each February twenty-eighth thereafter  
56 while the electrical corporation is allowed to make the deferrals provided for by subsection  
57 2 of this section, electrical corporations that defer depreciation expense and return  
58 authorized under this section shall submit to the commission a five-year capital investment  
59 plan setting forth the general categories of capital expenditures the electrical corporation  
60 will pursue in furtherance of replacing, modernizing, and securing its infrastructure. The  
61 plan shall also include a specific capital investment plan for the first year of the five-year  
62 plan consistent with the level of specificity used for annual capital budgeting purposes.  
63 Project specific information shall not be included for the five-year period covered by the  
64 plan. Within thirty days of the filing of any capital investment plan or annual update to  
65 an existing plan, the electrical corporation shall host a public stakeholder meeting to  
66 answer questions and receive feedback about the plan. After feedback is received, the  
67 electrical corporation shall file a notice with the commission of any modifications to the  
68 capital investment plan it has accepted. Changes to the plan, its implementation, or the  
69 level of investments made shall not constitute evidence of imprudence of the investments  
70 made under such plan. The submission of a capital investment plan under this section  
71 shall not affect in any way the commission's authority with respect to the grant or denial  
72 of a certificate of convenience and necessity under section 393.170.

73           5. This section shall only apply to any electrical corporation that has filed a notice  
74 with the commission of the electrical corporation's election to make the deferrals for which  
75 this section provides. An electrical corporation's election shall allow it to make the  
76 deferrals provided for by subsection 2 of this section until December 31, 2023, unless the  
77 electrical corporation requests and the commission approves the continuation of such  
78 deferrals beyond that date and approves continuation of the discounts authorized by  
79 section 393.1640 beyond that date as hereinafter provided. An electrical corporation that  
80 wishes to continue to make the deferrals provided for by subsection 2 of this section from  
81 January 1, 2024, through December 31, 2028, shall obtain the commission's approval to do  
82 so, shall be subject to the compound annual growth rate limitations set forth under section  
83 393.1655, and shall also obtain the commission's approval to continue to provide the  
84 discounts authorized by section 393.1640 in a commission order issued on or before  
85 December 31, 2023. The commission shall have the authority to grant or deny such  
86 approval but shall not be authorized to condition such approval or otherwise modify the  
87 deferrals authorized by subsection 2 of this section or the discounts authorized by section  
88 393.1640. Failure to obtain such commission approval shall not affect deferrals made  
89 through December 31, 2023, or the regulatory and ratemaking treatment of the regulatory  
90 assets arising from such deferrals as provided for by this section.

91           6. This section shall expire on December 31, 2028, except that the amortization of  
92 the regulatory asset balances arising under this section shall continue to be reflected in the  
93 electrical corporation's rates and remaining regulatory asset balances shall be included in  
94 the electrical corporation's rate base.

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

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

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

13



14 The discount shall be a percentage applied to all base rate components of the bill. The  
15 percentage shall be fixed for each year of service under the discount for a period of up to  
16 five years. The average of the annual discount percentages shall equal forty percent and  
17 shall not be less than thirty percent nor more than fifty percent in any year. The discount  
18 shall be applied to such incremental load from the date when the meter has been  
19 permanently set until the date that such incremental load no longer meets the criteria  
20 required to qualify for the discount, as determined under the provisions of subsection 2 of  
21 this section. An eligible customer shall also receive a ten percent discount of all base rate  
22 components of the bill applied to such incremental load for one year after the initial  
23 discount period ends if the electrical corporation determines that the customer is taking  
24 service from an under-utilized circuit. In no event shall a customer receive a discount  
25 under this subsection after the date this section expires. The electrical corporation may  
26 include in its tariff additional or alternative terms and conditions to a customer's  
27 utilization of the discount, subject to approval of such terms and conditions by the  
28 commission. The customer, on forms supplied by the electrical corporation, shall apply for  
29 the discount provided for by this subsection at least ninety days prior to the date the  
30 customer requests that the incremental demand receive the discounts provided for by this  
31 subsection. If the incremental demand is not separately metered, the electrical  
32 corporation's determination of the incremental demand shall control.

33       2. In each general rate proceeding concluded after the effective date of this section,  
34 the reduced level of revenues arising from the application of discounted rates provided for  
35 by subsection 1 of this section shall be allocated to all the electrical corporation's customer  
36 classes, including the classes with customers that qualify for discounts under this section.  
37 This increase shall be implemented through the application of a uniform percentage  
38 adjustment to the revenue requirement responsibility of all customer classes. To qualify  
39 for the discounted rates provided for in this section, if incremental load is separately  
40 metered, customers shall meet the applicable criteria within twenty-four months after the  
41 date the meter is permanently set based on metering data for calendar months thirteen  
42 through twenty-four and annually thereafter. If such data indicates that the customer did  
43 not meet the criteria for any applicable twelve-month period, it shall thereafter no longer  
44 qualify for the discounted rate. The provisions of this section do not supersede or limit the  
45 ability of an electrical corporation to continue to utilize economic development or retention  
46 tariffs previously approved by the commission that are in effect on the effective date of this  
47 section. If, however, a customer is receiving any economic development or retention-  
48 related discounts as of the date it would otherwise qualify for a discount provided for by  
49 this section, the customer shall agree to relinquish the prior discount concurrently with the

50 date it begins to receive a discount under this section; otherwise, the customer shall not be  
51 eligible to receive any discount under this section. Customer demand existing at the time  
52 the customer begins to receive discounted rates under this section shall not constitute  
53 incremental demand. The discounted rates provided for by this section apply only to base  
54 rate components, with the charges or credits arising from any rate adjustment mechanism  
55 authorized by law to be applied to customers qualifying for discounted rates under this  
56 section in the same manner as such rate adjustments would apply in the absence of this  
57 section.

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

61 4. This section shall expire on December 31, 2028, provided, that unless the  
62 electrical corporation has timely obtained the order provided for by subsection 5 of section  
63 393.1400, the electrical corporation's customers shall, after December 31, 2023, no longer  
64 receive the discounts provided under this section.

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

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

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

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

22 distribution system projects, and the contractor making the lowest and best bid shall be  
23 awarded such contract.

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

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

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

2       **393.1655. 1. This section applies to electrical corporations that have elected to**  
3 **exercise any option under section 393.1275 or 393.1400 and that have more than two**  
4 **hundred thousand Missouri retail customers in the year in which this section becomes**

4 effective, and shall continue to apply to such electrical corporation until December 31,  
5 2023, if the commission has not issued an order approving continuation of the deferral  
6 authorized by subsection 2 of section 393.1400 and continuation of the discounts authorized  
7 by section 393.1640 as authorized by subsection 5 of section 393.1400 with respect to an  
8 electrical corporation, or until December 31, 2028, if the commission has issued such an  
9 order with respect to an electrical corporation.

10       2. Notwithstanding any other provision of law and except as otherwise provided for  
11 by this section, an electrical corporation's base rates shall be held constant for a period  
12 starting on the date new base rates were established in the electrical corporation's last  
13 general rate proceeding concluded prior to the date the electrical corporation gave notice  
14 under either subsection 4 of section 393.1275 or subsection 5 of section 393.1400 and  
15 ending on the third anniversary of that date, unless a force majeure event as determined  
16 by the commission occurs. Whether a force majeure event has occurred shall be subject  
17 to commission review and approval in a general rate proceeding, and shall not preclude  
18 the commission from reviewing the prudence of any revenue reductions or costs incurred  
19 during any proceeding to set rates. This subsection shall not affect the electrical  
20 corporation's ability to adjust its non-base rates during the three-year period provided for  
21 in this subsection as authorized by its commission-approved rate adjustment mechanisms  
22 arising under sections 386.266, 393.1030, or 393.1075, or as authorized by any other rate  
23 adjustment mechanism authorized by law.

24       3. If the difference between the electrical corporation's average overall rate at any  
25 point in time while this section applies to the electrical corporation, and the electrical  
26 corporation's average overall rate as of the date new base rates are set in the electrical  
27 corporation's most recent general rate proceeding concluded prior to the date the electrical  
28 corporation gave notice under either subsection 4 of section 393.1275 or subsection 5 of  
29 section 393.1400, reflects a compound annual growth rate of more than three percent, the  
30 electrical corporation shall establish a regulatory liability in the amounts specified in  
31 subsection 4 of this section. The regulatory liability shall be amortized over a reasonable  
32 period as determined by the commission. A separate regulatory liability is required for  
33 each general rate proceeding covered by this subsection for which the three percent  
34 threshold provided by this subsection is exceeded.

35       4. A regulatory liability provided in subsection 3 of this section shall be twenty-five  
36 million dollars for an electrical corporation with more than one million Missouri retail  
37 customers in the year in which this section becomes effective and six million dollars for an  
38 electrical corporation with more than two hundred thousand but not more than one million  
39 Missouri retail customers in the year in which this section becomes effective.

40           **5. If the difference between the electrical corporation's average overall rate while**  
41 **this section applies to the electrical corporation, and the electrical corporation's average**  
42 **overall rate as of the date new base rates are set in the electrical corporation's most recent**  
43 **general rate proceeding concluded prior to the date the electrical corporation gave notice**  
44 **under either subsection 4 of section 393.1275 or subsection 5 of section 393.1400, reflects**  
45 **a compound annual growth rate of more than three and three-quarters percent, the**  
46 **electrical corporation shall, in addition to establishing the regulatory liability as specified**  
47 **in subsections 3 and 4 of this section, starting with the effective date of its revised base rates**  
48 **that exceed the three and three-quarters percent threshold provided for in this subsection,**  
49 **cease further deferrals under sections 393.1275 and 393.1400, with prior deferrals to be**  
50 **treated as provided in such sections.**

51           **6. If a change in any rates charged under a rate adjustment mechanism approved**  
52 **by the commission under sections 386.266 and 393.1030 would cause an electrical**  
53 **corporation's average overall rate to exceed the compound annual growth rate limitation**  
54 **set forth in subsection 3 of this section, the electrical corporation shall reduce the rates**  
55 **charged under that rate adjustment mechanism in an amount sufficient to ensure that the**  
56 **compound annual growth rate limitation set forth in subsection 3 is not exceeded due to**  
57 **the application of the rate charged under such mechanism and the penalty under**  
58 **subsection 4 is not triggered. Sums not recovered under any such mechanism because of**  
59 **any reduction in rates under such a mechanism pursuant to this subsection shall be**  
60 **deferred to and included in the regulatory asset arising under section 393.1400 or, if**  
61 **applicable, under the regulatory and ratemaking treatment ordered by the commission**  
62 **under subsection 6 of section 393.1400 and subsection 4 of section 393.1640, and recovered**  
63 **through an amortization in base rates in the same manner as deferrals under that section**  
64 **or order are recovered in base rates.**

65           **7. If the difference between the electrical corporation's class average overall rate**  
66 **while this section applies to the electrical corporation, and the electrical corporation's class**  
67 **average overall rate as of the date rates are set in the electrical corporation's most recent**  
68 **general rate proceeding concluded prior to the date the electrical corporation gave notice**  
69 **under either subsection 4 of section 393.1275 or subsection 5 of section 393.1400, reflects**  
70 **a compound annual growth rate of more than two percent for large power service rate**  
71 **class customers, the class average overall rate shall increase by an amount so that the**  
72 **increase shall equal a compound annual growth rate of two percent over such period for**  
73 **such large power service rate class customers, with the reduced revenues arising from**  
74 **limiting the large power service class average overall rate increase to two percent to be**  
75 **allocated to all the electrical corporation's other customer classes through the application**

76 of a uniform percentage adjustment to the revenue requirement responsibility of all the  
77 other customer classes.

78 8. For purposes of this section, the following terms shall mean:

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

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

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

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

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

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

104 (7) "Force majeure event", an event or circumstance that occurs as a result of a  
105 weather event, an act of God, war, or terrorism, or other uncontrollable event as  
106 determined by the commission that causes a reduction in revenues, an increase in the cost  
107 of providing electrical service, or some combination thereof, and the event has an  
108 associated fiscal impact on the electrical corporation's operations equal to three percent  
109 or greater of the total revenue requirement established in the electrical corporation's last  
110 general rate proceeding concluded prior to the date the electrical corporation gave a notice  
111 under either subsection 4 of section 393.1275 or subsection 5 of section 393.1400;

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

✓

SECOND REGULAR SESSION  
[CORRECTED]  
HOUSE COMMITTEE SUBSTITUTE FOR  
**HOUSE BILL NO. 2265**  
**99TH GENERAL ASSEMBLY**

6103H.04C

D. ADAM CRUMBLISS, Chief Clerk

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**AN ACT**

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

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

Section A. Sections 386.266, 386.390, and 393.170, RSMo, are repealed and twelve new  
2 sections enacted in lieu thereof, to be known as sections 386.266, 386.390, 393.137, 393.170,  
3 393.1100, 393.1400, 393.1610, 393.1640, 393.1650, 393.1655, 393.1670, and 1, to read as  
4 follows:

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

8 2. Subject to the requirements of this section, any electrical, gas, or water corporation  
9 may make an application to the commission to approve rate schedules authorizing periodic rate  
10 adjustments outside of general rate proceedings to reflect increases and decreases in its prudently  
11 incurred costs, whether capital or expense, to comply with any federal, state, or local  
12 environmental law, regulation, or rule. Any rate adjustment made under such rate schedules  
13 shall not exceed an annual amount equal to two and one-half percent of the electrical, gas, or  
14 water corporation's Missouri gross jurisdictional revenues, excluding gross receipts tax, sales tax  
15 and other similar pass-through taxes not included in tariffed rates, for regulated services as

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.



16 established in the utility's most recent general rate case or complaint proceeding. In addition to  
17 the rate adjustment, the electrical, gas, or water corporation shall be permitted to collect any  
18 applicable gross receipts tax, sales tax, or other similar pass-through taxes, and such taxes shall  
19 not be counted against the two and one-half percent rate adjustment cap. Any costs not  
20 recovered as a result of the annual two and one-half percent limitation on rate adjustments may  
21 be deferred, at a carrying cost each month equal to the utilities net of tax cost of capital, for  
22 recovery in a subsequent year or in the corporation's next general rate case or complaint  
23 proceeding.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

386.390. 1. Complaint may be made by the commission of its own motion, or by the  
2 public counsel or any corporation or person, chamber of commerce, board of trade, or any civic,  
3 commercial, mercantile, traffic, agricultural or manufacturing association or organization, or any  
4 body politic or municipal corporation, by petition or complaint in writing, setting forth any act

5 or thing done or omitted to be done by any corporation, person or public utility[~~including any~~  
6 ~~rule, regulation or charge heretofore established or fixed by or for any corporation, person or~~  
7 ~~public utility,~~] in violation, or claimed to be in violation, of any provision of law **subject to the**  
8 **commission's authority, [or] of any rule promulgated by the commission, of any utility**  
9 **tariff, or of any order or decision of the commission;** provided, that no complaint shall be  
10 entertained by the commission, except upon its own motion, as to the reasonableness of any rates  
11 or charges of any gas, electrical, water, sewer, or telephone corporation, unless the same be  
12 signed by the public counsel or the mayor or the president or chairman of the board of aldermen  
13 or a majority of the council, commission or other legislative body of any city, town, village or  
14 county, within which the alleged violation occurred, or not less than twenty-five consumers or  
15 purchasers, or prospective consumers or purchasers, of such gas, electricity, water, sewer or  
16 telephone service.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

92  
93 Project specific information need not be included for the five-year period covered by the  
94 plan. Within thirty days of the filing of any capital investment plan or annual update to  
95 an existing plan, the electrical corporation shall host a public stakeholder meeting to  
96 answer questions and receive feedback about the plan. After feedback is received, the  
97 electrical corporation shall file a notice with the commission of any modifications to the  
98 capital investment plan it has accepted. Changes to the plan, its implementation, or the  
99 level of investments made shall not constitute evidence of imprudence of the investments  
100 made under such plan. The submission of a capital investment plan under this section

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

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

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

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

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

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

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

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

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

16  
17 The discount shall be a percentage applied to all base rate components of the bill. The  
18 percentage shall be fixed for each year of service under the discount for a period of up to  
19 five years. Subject to the remaining provisions of this subsection, the average of the annual  
20 discount percentages shall equal forty percent and shall not be less than thirty percent nor  
21 more than fifty percent in any year. The discount shall be applied to such incremental load  
22 from the date when the meter has been permanently set until the date that such  
23 incremental load no longer meets the criteria required to qualify for the discount, as  
24 determined under the provisions of subsection 2 of this section. An eligible customer shall  
25 also receive a ten percent discount of all base rate components of the bill applied to such  
26 incremental load for one year after the initial discount period ends if the electrical  
27 corporation determines that the customer is taking service from an underutilized circuit.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

✓

SECOND REGULAR SESSION  
[PERFECTED]  
HOUSE COMMITTEE SUBSTITUTE FOR  
**HOUSE BILL NO. 2265**  
**99TH GENERAL ASSEMBLY**

6103H.04P

D. ADAM CRUMBLISS, Chief Clerk

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**AN ACT**

To repeal sections 386.135, 386.266, 386.390, 393.170, 393.1025, and 393.1030, RSMo, and to enact in lieu thereof nineteen new sections relating to public utilities, with an emergency clause for a certain section.

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

Section A. Sections 386.135, 386.266, 386.390, 393.170, 393.1025, and 393.1030, RSMo, are repealed and nineteen new sections enacted in lieu thereof, to be known as sections 386.135, 386.266, 386.390, 386.822, 386.1200, 393.137, 393.170, 393.1025, 393.1030, 393.1100, 393.1130, 393.1400, 393.1610, 393.1640, 393.1650, 393.1655, 393.1670, 620.3080, and 1, to read as follows:

386.135. 1. The commission shall have an independent technical advisory staff of up to six full-time employees. The advisory staff shall have expertise in accounting, economics, finance, engineering/utility operations, law, or public policy.

2. In addition, each commissioner shall also have the authority to retain one personal advisor, who shall be deemed a member of the technical advisory staff. The personal advisors will serve at the pleasure of the individual commissioner whom they serve and shall possess expertise in one or more of the following fields: accounting, economics, finance, engineering/utility operations, law, or public policy.

3. The commission shall only hire technical advisory staff pursuant to subsections 1 and 2 of this section if there is a corresponding elimination in comparable staff positions for commission staff to offset the hiring of such technical advisory staff on a cost-neutral basis. ~~[Such technical advisory staff shall be hired on or before July 1, 2005.]~~

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

13           4. It shall be the duty of the technical advisory staff to render advice and assistance to  
14 the commissioners and the commission's administrative law judges on technical matters within  
15 their respective areas of expertise that may arise during the course of proceedings before the  
16 commission. **Communications between commissioners and technical advisory staff**  
17 **members who are not attorneys shall be protected from public disclosure if and to the same**  
18 **extent such communications between a commissioner and a technical advisory staff**  
19 **member who is an attorney would have be protected from public disclosure.**

20           5. The technical advisory staff shall also update the commission and the commission's  
21 administrative law judges periodically on developments and trends in public utility regulation,  
22 including updates comparing the use, nature, and effect of various regulatory practices and  
23 procedures as employed by the commission and public utility commissions in other jurisdictions.

24           6. Each member of the technical advisory staff shall be subject to any applicable ex parte  
25 or conflict of interest requirements in the same manner and to the same degree as any  
26 commissioner, provided that neither any person regulated by, appearing before, or employed by  
27 the commission shall be permitted to offer such member a different appointment or position  
28 during that member's tenure on the technical advisory staff.

29           7. No employee of a company or corporation regulated by the public service commission,  
30 no employee of the office of public counsel or the public counsel, and no staff members of either  
31 the utility operations division or utility services division who were an employee or staff member  
32 on, during the two years immediately preceding, or anytime after August 28, 2003, may be a  
33 member of the commission's technical advisory staff for two years following the termination of  
34 their employment with the corporation, office of public counsel or commission staff member.

35           8. The technical advisory staff shall never be a party to any case before the commission.

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

8           2. Subject to the requirements of this section, any electrical, gas, or water corporation  
9 may make an application to the commission to approve rate schedules authorizing periodic rate  
10 adjustments outside of general rate proceedings to reflect increases and decreases in its prudently  
11 incurred costs, whether capital or expense, to comply with any federal, state, or local  
12 environmental law, regulation, or rule. Any rate adjustment made under such rate schedules  
13 shall not exceed an annual amount equal to two and one-half percent of the electrical, gas, or

14 water corporation's Missouri gross jurisdictional revenues, excluding gross receipts tax, sales tax  
15 and other similar pass-through taxes not included in tariffed rates, for regulated services as  
16 established in the utility's most recent general rate case or complaint proceeding. In addition to  
17 the rate adjustment, the electrical, gas, or water corporation shall be permitted to collect any  
18 applicable gross receipts tax, sales tax, or other similar pass-through taxes, and such taxes shall  
19 not be counted against the two and one-half percent rate adjustment cap. Any costs not  
20 recovered as a result of the annual two and one-half percent limitation on rate adjustments may  
21 be deferred, at a carrying cost each month equal to the utilities net of tax cost of capital, for  
22 recovery in a subsequent year or in the corporation's next general rate case or complaint  
23 proceeding.

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

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

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

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

47       (3) In the case of an adjustment mechanism submitted under subsections 1 and 2 of this  
48 section, includes provisions requiring that the utility file a general rate case with the effective  
49 date of new rates to be no later than four years after the effective date of the commission order



50 implementing the adjustment mechanism. However, with respect to each mechanism, the  
51 four-year period shall not include any periods in which the utility is prohibited from collecting  
52 any charges under the adjustment mechanism, or any period for which charges collected under  
53 the adjustment mechanism must be fully refunded. In the event a court determines that the  
54 adjustment mechanism is unlawful and all moneys collected thereunder are fully refunded, the  
55 utility shall be relieved of any obligation under that adjustment mechanism to file a rate case;

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

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

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

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

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

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

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

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

85           12. The ~~[provisions of this section shall take effect on January 1, 2006, and the]~~  
86 commission shall have previously promulgated rules to implement the application process for  
87 any rate adjustment mechanism under this section prior to the commission issuing an order for  
88 any **such** rate adjustment.

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

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

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

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

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

- 119           (a) Common stock equity (net);
- 120           (b) Preferred stock, par or stated value outstanding;

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

386.390. 1. Complaint may be made by the commission of its own motion, or by the  
2 public counsel or any corporation or person, chamber of commerce, board of trade, or any civic,

3 commercial, mercantile, traffic, agricultural or manufacturing association or organization, or any  
4 body politic or municipal corporation, by petition or complaint in writing, setting forth any act  
5 or thing done or omitted to be done by any corporation, person or public utility[~~including any~~  
6 ~~rule, regulation or charge heretofore established or fixed by or for any corporation, person or~~  
7 ~~public utility,~~] in violation, or claimed to be in violation, of any provision of law **subject to the**  
8 **commission's authority, [ø]** of any rule **promulgated by the commission, of any utility**  
9 **tariff, or of any order or decision of the commission;** provided, that no complaint shall be  
10 entertained by the commission, except upon its own motion, as to the reasonableness of any rates  
11 or charges of any gas, electrical, water, sewer, or telephone corporation, unless the same be  
12 signed by the public counsel or the mayor or the president or chairman of the board of aldermen  
13 or a majority of the council, commission or other legislative body of any city, town, village or  
14 county, within which the alleged violation occurred, or not less than twenty-five consumers or  
15 purchasers, or prospective consumers or purchasers, of such gas, electricity, water, sewer or  
16 telephone service.

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

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

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

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

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

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

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

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

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

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

17 (3) "Utility", any entity regulated by the commission under chapter 386 or 393.

18 2. A utility shall not install an advanced meter, upgrade the functionality of a  
19 previously installed advanced meter, or replace a customer's meter with an advanced  
20 meter, a traditional meter, or any other type of meter unless:

21 (1) Prior to such installation, upgrade, or replacement, the utility attempts to notify  
22 the customer of the intended installation, upgrade, or replacement. Such notice may be  
23 sent by mail, electronic means, telephone, or door hanger. Such notice shall be separate  
24 from any billing mailing or notification. The on-site utility worker shall attempt to orally  
25 inform the customer of the installation, upgrade, or replacement; and

26 (2) After performing the installation, upgrade, or replacement, the on-site utility  
27 worker shall leave written notice of work performed.

386.1200. The commission shall have authority to approve programs or rates for  
2 electrical corporations that are designed to assist low-income residential customers in  
3 restoring or retaining access to essential electric utility services while also seeking to  
4 mitigate the adverse financial impacts experienced by other customers as a result of the loss  
5 in revenue contribution and the increase in disconnection, reconnection, collection, call  
6 center, and other expenses that occur when such customers cannot maintain utility service.  
7 The aggregate impact of any special low-income rate shall be limited to no more than one-  
8 half of one percent of the total revenue requirement allocated to the residential customer  
9 class used to set rates. The commission shall not require any electrical corporation to  
10 verify the financial status of its customers, and shall permit electrical corporations to rely  
11 upon a third party or community agency to verify any eligibility requirements approved  
12 by the commission in order for a residential customer to qualify for a low-income program  
13 or rate approved under this section.

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

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

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

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

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

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

5. Notwithstanding subsections 3 and 4 of this section, if any electrical corporation with more than one million Missouri electric customers provides notice to the commission under subsection 5 of section 393.1400, then the commission shall adjust such electrical corporation's rates prospectively so that the income tax component of the revenue requirement used to set such an electrical corporation's rates is based upon the provisions

36 of the federal 2017 Tax Cut and Jobs Act, Pub. L. No. 115-97, 94 Stat. 2390, without  
37 considering any other factor as otherwise required by section 393.270.

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

5 2. No such corporation shall exercise any right or privilege under any franchise hereafter  
6 granted, or under any franchise heretofore granted but not heretofore actually exercised, or the  
7 exercise of which shall have been suspended for more than one year, without first having  
8 obtained the permission and approval of the commission. Before such certificate shall be issued  
9 a certified copy of the charter of such corporation shall be filed in the office of the commission,  
10 together with a verified statement of the president and secretary of the corporation, showing that  
11 it has received the required consent of the proper municipal authorities.

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

393.1025. As used in sections 393.1020 to 393.1030, the following terms mean:

- 2 (1) "Commission", the public service commission;  
3 (2) "Department", the department of natural resources;  
4 (3) "Electric utility", any electrical corporation as defined by section 386.020;  
5 (4) "Processed solid biomass engineered fiber fuel", any fuel derived from raw  
6 biomass feedstock produced in this state that is changed from its original form by pyrolysis  
7 or other thermal or thermochemical conversion in a manufacturing process resulting in a  
8 solid fuel product with a heat value of at least eight thousand four hundred British  
9 Thermal Units per pound on an as-received basis;  
10 (5) "Renewable energy credit" or "REC", a tradeable certificate of proof that one  
11 megawatt-hour of electricity has been generated from renewable energy sources; ~~and~~  
12 ~~(5)~~ (6) "Renewable energy resources", electric energy produced from wind, solar  
13 thermal sources, photovoltaic cells and panels, dedicated crops grown for energy production,  
14 cellulosic agricultural residues, plant residues, processed solid biomass engineered fiber fuel,  
15 methane from landfills, from agricultural operations, or from wastewater treatment, thermal  
16 depolymerization or pyrolysis for converting waste material to energy, clean and untreated wood

17 such as pallets, hydropower (not including pumped storage) that does not require a new diversion  
18 or impoundment of water and that has a nameplate rating of ten megawatts or less, fuel cells  
19 using hydrogen produced by one of the above-named renewable energy sources, and other  
20 sources of energy not including nuclear that become available after November 4, 2008, and are  
21 certified as renewable by rule by the department.

393.1030. 1. The commission shall, in consultation with the department, prescribe by  
2 rule a portfolio requirement for all electric utilities to generate or purchase electricity generated  
3 from renewable energy resources. Such portfolio requirement shall provide that electricity from  
4 renewable energy resources shall constitute the following portions of each electric utility's sales:

- 5 (1) No less than two percent for calendar years 2011 through 2013;
- 6 (2) No less than five percent for calendar years 2014 through 2017;
- 7 (3) No less than ten percent for calendar years 2018 through 2020; and
- 8 (4) No less than fifteen percent in each calendar year beginning in 2021.

9  
10 At least two percent of each portfolio requirement shall be derived from solar energy. The  
11 portfolio requirements shall apply to all power sold to Missouri consumers whether such power  
12 is self-generated or purchased from another source in or outside of this state. A utility may  
13 comply with the standard in whole or in part by purchasing RECs. Each kilowatt-hour of eligible  
14 energy generated in Missouri shall count as 1.25 kilowatt-hours for purposes of compliance.  
15 **Each kilowatt-hour of eligible energy generated from processed solid biomass engineered**  
16 **fiber fuel shall count as 1.50 kilowatt-hours for purposes of compliance.**

17 2. The commission, in consultation with the department and within one year of  
18 November 4, 2008, shall select a program for tracking and verifying the trading of renewable  
19 energy credits. An unused credit may exist for up to three years from the date of its creation.  
20 A credit may be used only once to comply with sections 393.1020 to 393.1030 and may not also  
21 be used to satisfy any similar nonfederal requirement. An electric utility may not use a credit  
22 derived from a green pricing program. Certificates from net-metered sources shall initially be  
23 owned by the customer-generator. The commission, except where the department is specified,  
24 shall make whatever rules are necessary to enforce the renewable energy standard. Such rules  
25 shall include:

26 (1) A maximum average retail rate increase of one percent determined by estimating and  
27 comparing the electric utility's cost of compliance with least-cost renewable generation and the  
28 cost of continuing to generate or purchase electricity from entirely nonrenewable sources, taking  
29 into proper account future environmental regulatory risk including the risk of greenhouse gas  
30 regulation. Notwithstanding the foregoing, until June 30, 2020, if the maximum average retail  
31 rate increase would be less than or equal to one percent if an electric utility's investment in solar-



32 related projects initiated, owned or operated by the electric utility is ignored for purposes of  
33 calculating the increase, then additional solar rebates shall be paid and included in rates in an  
34 amount up to the amount that would produce a retail rate increase equal to the difference between  
35 a one percent retail rate increase and the retail rate increase calculated when ignoring an electric  
36 utility's investment in solar-related projects initiated, owned, or operated by the electric utility.  
37 Notwithstanding any provision to the contrary in this section, even if the payment of additional  
38 solar rebates will produce a maximum average retail rate increase of greater than one percent  
39 when an electric utility's investment in solar-related projects initiated, owned or operated by the  
40 electric utility are included in the calculation, the additional solar rebate costs shall be included  
41 in the prudently incurred costs to be recovered as contemplated by subdivision (4) of this  
42 subsection;

43 (2) Penalties of at least twice the average market value of renewable energy credits for  
44 the compliance period for failure to meet the targets of subsection 1 of this section. An electric  
45 utility will be excused if it proves to the commission that failure was due to events beyond its  
46 reasonable control that could not have been reasonably mitigated, or that the maximum average  
47 retail rate increase has been reached. Penalties shall not be recovered from customers. Amounts  
48 forfeited under this section shall be remitted to the department to purchase renewable energy  
49 credits needed for compliance. Any excess forfeited revenues shall be used by the department's  
50 energy center solely for renewable energy and energy efficiency projects;

51 (3) Provisions for an annual report to be filed by each electric utility in a format  
52 sufficient to document its progress in meeting the targets;

53 (4) Provision for recovery outside the context of a regular rate case of prudently incurred  
54 costs and the pass-through of benefits to customers of any savings achieved by an electrical  
55 corporation in meeting the requirements of this section.

56 3. As provided for in this section, except for those electrical corporations that qualify for  
57 an exemption under section 393.1050, each electric utility shall make available to its retail  
58 customers a solar rebate for new or expanded solar electric systems sited on customers' premises,  
59 up to a maximum of twenty-five kilowatts per system, measured in direct current that were  
60 confirmed by the electric utility to have become operational in compliance with the provisions  
61 of section 386.890. The solar rebates shall be two dollars per watt for systems becoming  
62 operational on or before June 30, 2014; one dollar and fifty cents per watt for systems becoming  
63 operational between July 1, 2014, and June 30, 2015; one dollar per watt for systems becoming  
64 operational between July 1, 2015, and June 30, 2016; fifty cents per watt for systems becoming  
65 operational between July 1, 2016, and June 30, 2017; fifty cents per watt for systems becoming  
66 operational between July 1, 2017, and June 30, 2019; twenty-five cents per watt for systems  
67 becoming operational between July 1, 2019, and June 30, 2020; and zero cents per watt for

68 systems becoming operational after June 30, 2020. An electric utility may, through its tariffs,  
69 require applications for rebates to be submitted up to one hundred eighty-two days prior to the  
70 June thirtieth operational date. Nothing in this section shall prevent an electrical corporation  
71 from offering rebates after July 1, 2020, through an approved tariff. If the electric utility  
72 determines the maximum average retail rate increase provided for in subdivision (1) of  
73 subsection 2 of this section will be reached in any calendar year, the electric utility shall be  
74 entitled to cease paying rebates to the extent necessary to avoid exceeding the maximum average  
75 retail rate increase if the electrical corporation files with the commission to suspend its rebate  
76 tariff for the remainder of that calendar year at least sixty days prior to the change taking effect.  
77 The filing with the commission to suspend the electrical corporation's rebate tariff shall include  
78 the calculation reflecting that the maximum average retail rate increase will be reached and  
79 supporting documentation reflecting that the maximum average retail rate increase will be  
80 reached. The commission shall rule on the suspension filing within sixty days of the date it is  
81 filed. If the commission determines that the maximum average retail rate increase will be  
82 reached, the commission shall approve the tariff suspension. The electric utility shall continue  
83 to process and pay applicable solar rebates until a final commission ruling; however, if the  
84 continued payment causes the electric utility to pay rebates that cause it to exceed the maximum  
85 average retail rate increase, the expenditures shall be considered prudently incurred costs as  
86 contemplated by subdivision (4) of subsection 2 of this section and shall be recoverable as such  
87 by the electric utility. As a condition of receiving a rebate, customers shall transfer to the electric  
88 utility all right, title, and interest in and to the renewable energy credits associated with the new  
89 or expanded solar electric system that qualified the customer for the solar rebate for a period of  
90 ten years from the date the electric utility confirmed that the solar electric system was installed  
91 and operational.

92 4. The department shall, in consultation with the commission, establish by rule a  
93 certification process for electricity generated from renewable resources and used to fulfill the  
94 requirements of subsection 1 of this section. Certification criteria for renewable energy  
95 generation shall be determined by factors that include fuel type, technology, and the  
96 environmental impacts of the generating facility. Renewable energy facilities shall not cause  
97 undue adverse air, water, or land use impacts, including impacts associated with the gathering  
98 of generation feedstocks. If any amount of fossil fuel is used with renewable energy resources,  
99 only the portion of electrical output attributable to renewable energy resources shall be used to  
100 fulfill the portfolio requirements.

101 5. In carrying out the provisions of this section, the commission and the department shall  
102 include methane generated from the anaerobic digestion of farm animal waste and thermal

103 depolymerization or pyrolysis for converting waste material to energy as renewable energy  
104 resources for purposes of this section.

105         6. The commission shall have the authority to promulgate rules for the implementation  
106 of this section, but only to the extent such rules are consistent with, and do not delay the  
107 implementation of, the provisions of this section. Any rule or portion of a rule, as that term is  
108 defined in section 536.010, that is created under the authority delegated in this section shall  
109 become effective only if it complies with and is subject to all of the provisions of chapter 536  
110 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of  
111 the powers vested with the general assembly pursuant to chapter 536 to review, to delay the  
112 effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the  
113 grant of rulemaking authority and any rule proposed or adopted after August 28, 2013, shall be  
114 invalid and void.

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

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

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

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

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

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

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

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

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

          393.1130. 1. This section shall be known and may be cited as "The Nuclear Energy  
2 Standard".

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

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

5           (2) "Small modular nuclear reactor", a nuclear reactor based on fission that is  
6 approved under federal and state laws and regulations to be constructed in this state and  
7 produces less than three hundred megawatts of clean electrical energy;

8           (3) "Utility", any electrical corporation, as defined under section 386.020, but this  
9 term shall not include any electrical corporation as described under subsection 2 of section  
10 393.110.

11           3. Upon the fulfillment of subsection 4 of this section, the commission shall  
12 prescribe by rule that all utilities in this state produce electricity using small modular  
13 nuclear reactors such that a percentage deemed prudent by the commission of each utility's  
14 total electricity retail sales are made based on electricity generated by such reactors. The  
15 commission shall have discretion with regard to the time for requiring compliance with the  
16 nuclear energy standard, but in no case shall it require full compliance less than three  
17 years from the fulfillment of the conditions for the effective date of this section. The  
18 commission may promulgate such rules or regulations as are necessary to administer the  
19 provisions of this section. Any rule or portion of a rule, as that term is defined in section  
20 536.010, that is created under the authority delegated in this section shall become effective  
21 only if it complies with and is subject to all of the provisions of chapter 536 and, if  
22 applicable, section 536.028. This section and chapter 536 are nonseverable, and if any of  
23 the powers vested with the general assembly pursuant to chapter 536 to review, to delay  
24 the effective date, or to disapprove and annul a rule are subsequently held  
25 unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted  
26 after the effective date of this section shall be invalid and void.

27           4. This section shall become effective only if a production facility for small modular  
28 nuclear reactors has been built in this state and is operational. A facility shall be classified

29 as operational if such facility has produced no fewer than three small modular nuclear  
30 reactors in accordance with all federal and state laws and regulations and such reactors  
31 are legally available for sale or use. If the commission determines that a production facility  
32 is properly operational in accordance with this section, then it shall comply with the  
33 requirements of subsection 3 of this section. The commission shall notify the revisor of  
34 statutes when a facility has been built and becomes operational.

35 5. Notwithstanding subsection 3 of this section to the contrary, a utility may petition  
36 the commission to satisfy the percentage generation requirement from renewable or  
37 hydroelectric sources, or with the purchase of renewable energy credits, as defined in  
38 section 393.1025. The commission may grant such a petition upon a finding of undue  
39 hardship for compliance or due to a lack of increase in demand for energy generation by  
40 the utility.

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

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

21 2. (1) Notwithstanding any other provision of chapter 393 to the contrary,  
22 electrical corporations shall, starting after the effective date of this section if the electrical  
23 corporation has made the election provided for by subsection 5 of this section by that date,  
24 or on the date such election is made if the election is made after the effective date of this

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

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

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

47 3. (1) Depreciation expense deferred under this section shall account for all  
48 qualifying electric plant placed into service but shall not account for retirements of plant  
49 replaced by such qualifying electric plant.

50 (2) Return deferred under this section shall be determined using the weighted  
51 average cost of capital applied to the change in plant-related rate base caused by the  
52 qualifying electric plant plus applicable federal, state, and local income or excise taxes, but  
53 shall not account for changes in plant-related accumulated deferred income taxes and  
54 changes in accumulated depreciation.

55 4. Beginning February 28, 2019, and by each February twenty-eighth thereafter,  
56 while the electrical corporation is allowed to make the deferrals provided for by subsection  
57 2 of this section, electrical corporations that defer depreciation expense and return  
58 authorized under this section shall submit to the commission a five-year capital investment  
59 plan setting forth the general categories of capital expenditures the electrical corporation  
60 will pursue in furtherance of replacing, modernizing, and securing its infrastructure. The

61 plan shall also include a specific capital investment plan for the first year of the five-year  
62 plan consistent with the level of specificity used for annual capital budgeting purposes. For  
63 each of the first five years that an electrical corporation is allowed to make the deferrals  
64 provided for by subsection 2 of this section, the purchase and installation of smart meters  
65 shall constitute no more than six percent of the electrical corporation's total capital  
66 expenditures during any given year under the corporation's specific capital investment  
67 plan. At least twenty-five percent of the cost of each year's capital investment plan shall  
68 be comprised of grid modernization projects including, but not limited to:

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

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

72 (3) Deployment and integration of distributed resources and generation, including  
73 renewable resources;

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

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

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

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

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

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

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

90

91 Project specific information need not be included for the five-year period covered by the  
92 plan. Within thirty days of the filing of any capital investment plan or annual update to  
93 an existing plan, the electrical corporation shall host a public stakeholder meeting to  
94 answer questions and receive feedback about the plan. After feedback is received, the  
95 electrical corporation shall file a notice with the commission of any modifications to the  
96 capital investment plan it has accepted. Changes to the plan, its implementation, or the

97 level of investments made shall not constitute evidence of imprudence of the investments  
98 made under such plan. The submission of a capital investment plan under this section  
99 shall not affect in any way the commission's authority with respect to the grant or denial  
100 of a certificate of convenience and necessity under section 393.170. By February twenty-  
101 eighth following each year in which the electrical corporation submits a capital investment  
102 plan, the electrical corporation shall submit a report to the commission detailing actual  
103 capital investments made the previous year.

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

129       6. This section shall expire on December 31, 2028, except that the amortization of  
130 the regulatory asset balances arising under this section shall continue to be reflected in the  
131 electrical corporation's rates, and remaining regulatory asset balances shall be included



132 in the electrical corporation's rate base consistent with the ratemaking treatment and  
133 amortization previously approved by the commission pursuant to this section.

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

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

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

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

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

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

16  
17 The discount shall be a percentage applied to all base rate components of the bill. The  
18 percentage shall be fixed for each year of service under the discount for a period of up to  
19 five years. Subject to the remaining provisions of this subsection, the average of the annual  
20 discount percentages shall equal forty percent and shall not be less than thirty percent nor  
21 more than fifty percent in any year. The discount shall be applied to such incremental load  
22 from the date when the meter has been permanently set until the date that such  
23 incremental load no longer meets the criteria required to qualify for the discount, as  
24 determined under the provisions of subsection 2 of this section. An eligible customer shall  
25 also receive a ten percent discount of all base rate components of the bill applied to such

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

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

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

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

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

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

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

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

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

22 distribution system projects, and the contractor making the lowest and best bid shall be  
23 awarded such contract.

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

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

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

**393.1655. 1. This section applies to an electrical corporation that has elected to**  
2 **exercise any option under section 393.1400 and that has more than two hundred thousand**  
3 **Missouri retail customers in the year in which this section becomes effective, and shall**  
4 **continue to apply to such electrical corporation until December 31, 2023, if the commission**

5 has not issued an order approving continuation of the deferrals authorized by subsection  
6 2 of section 393.1400, and continuation of the discounts authorized by section 393.1640 as  
7 authorized by subsection 5 of section 393.1400 with respect to the electrical corporation,  
8 or until December 31, 2028, if the commission has issued such an order with respect to the  
9 electrical corporation.

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

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

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

41 reflects a compound annual growth rate of more than two and eighty-five hundredths  
42 percent, the electrical corporation shall not recover any amount in excess of such two and  
43 eighty-five hundredths percent as a performance penalty.

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

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

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

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

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

- 77           (3) "Average rider rate", a rate calculated by dividing the total of the sums to be  
78 recovered from all customer classes under the electrical corporation's rate adjustment  
79 mechanisms in place other than a rate adjustment mechanism under section 393.1075 by  
80 the total sales volumes stated in kilowatt-hours for all of the electrical corporation's rate  
81 classes used to set rates under such rate adjustment mechanisms, exclusive of gross receipts  
82 tax, sales tax, and other similar pass-through taxes;
- 83           (4) "Class average base rate", a rate calculated by dividing the retail revenue  
84 requirement from the applicable general rate proceeding that is allocated to the electrical  
85 corporation's large power service rate class in that general rate proceeding by the total  
86 sales volumes stated in kilowatt-hours for that class used to set rates in that general rate  
87 proceeding, exclusive of gross receipts tax, sales tax, and other similar pass-through taxes;
- 88           (5) "Class average overall rate", a rate equal to the sum of the class average base  
89 rate and the class average rider rate;
- 90           (6) "Class average rider rate", a rate calculated by dividing the total of the sums  
91 allocated for recovery from the large power service rate class under the electrical  
92 corporation's rate adjustment mechanisms in place, other than a rate adjustment  
93 mechanism under section 393.1075, by the total sales volumes stated in kilowatt-hours for  
94 that class used to set rates under such rate adjustment mechanisms, exclusive of gross  
95 receipts tax, sales tax, and other similar pass-through taxes;
- 96           (7) "Force majeure event", an event or circumstance that occurs as a result of a  
97 weather event, an act of God, war, terrorism, or other event which threatens the financial  
98 integrity of the electrical corporation and that causes a reduction in revenues, an increase  
99 in the cost of providing electrical service, or some combination thereof, and the event has  
100 an associated fiscal impact on the electrical corporation's operations equal to three percent  
101 or greater of the total revenue requirement established in the electrical corporation's last  
102 general rate proceeding after taking into account the financial impact specified in section  
103 393.137. Any force majeure event shall be subject to commission review and approval and  
104 shall not preclude the commission from reviewing the prudence of any revenue reductions  
105 or costs incurred during any proceeding to set rates;
- 106           (8) "Large power service rate class", the rate class of each corporation that  
107 requires the highest minimum monthly billing demand of all of the electrical corporation's  
108 rate classes in order to qualify as a member of such rate class, and that applies to  
109 qualifying customers only if they utilize the electrical corporation's distribution system.

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

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

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

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

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

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



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

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

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

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

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

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

620.3080. 1. As used in this section, the following terms shall mean:

2 (1) "Job creation, worker training, and infrastructure development programs", the  
3 Missouri works program established under sections 620.2000 to 620.2020, the Missouri  
4 business use incentives for large-scale development act established under sections 100.700  
5 to 100.850, the Missouri works training program established under sections 620.800 to  
6 620.809, and the real property tax increment allocation redevelopment act established  
7 under sections 99.800 to 99.865;

8           (2) "Small modular nuclear reactor production facility" or "SMR production  
9 facility", a facility, approved under federal and state laws and regulations to be  
10 constructed, that produces nuclear reactors based on fission that each produce less than  
11 three hundred megawatts of clean electrical energy.

12           2. Notwithstanding any other provision of law to the contrary, no benefits  
13 authorized under job creation, worker training, and infrastructure development programs  
14 for an SMR production facility shall be considered in determining compliance with  
15 applicable limitations on the aggregate amount of benefits that may be awarded annually  
16 or cumulatively under subdivision (3) of subsection 10 of section 99.845, subsection 5 of  
17 section 100.850, subsection 7 of section 620.809, and subsection 7 of section 620.2020. No  
18 SMR production facility shall be authorized for state benefits under job creation, worker  
19 training, and infrastructure development programs that exceed, in the aggregate, one  
20 hundred fifty million dollars annually under all such programs.

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

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

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