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MISSOURI SENATE
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OPC Exhibit No. 127
Date 10/31/18 Reporter SH
File No. 2A-2018-0202

TO ALL TO WHOM THESE PRESENTS SHALL COME:

I, Adriane D. Crouse, Secretary of Senate of the State of Missouri hereby certify the attached to be full, true and complete copies of the following versions of the bill and amendment for SB 564 from the 99th General Assembly, Second Regular Session:

Introduced	-Legislative Number 5027S.01I
Senate Substitute # 5	-Legislative Number 5027S.11F
Senate Amendment 1 to SS#5	-Legislative Number 5027S11.03S
Perfected	-Legislative Number 5027S.11P
Truly Agreed to and Finally Passed	-Legislative Number 5027S.11T



In Testimony Whereof, I hereunto set my hand and affix the Seal of the Senate of the State of Missouri. Done at the City of Jefferson this 22nd day of October, 2018.

Adriane D Crouse

Adriane D. Crouse
Secretary of Senate

SECOND REGULAR SESSION

SENATE BILL NO. 564

99TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR EMERY.

Pre-filed December 1, 2017, and ordered printed.

ADRIANE D. CROUSE, Secretary.

5027S.011

AN ACT

To repeal sections 386.266 and 386.390, RSMo, and to enact in lieu thereof seven new sections relating to public utilities.

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

Section A. Sections 386.266 and 386.390, RSMo, are repealed and seven
2 new sections enacted in lieu thereof, to be known as sections 386.266, 386.390,
3 393.1275, 393.1400, 393.1640, 393.1650, and 393.1655, to read as follows:

386.266. 1. Subject to the requirements of this section, any electrical
2 corporation may make an application to the commission to approve rate schedules
3 authorizing an interim energy charge, or periodic rate adjustments outside of
4 general rate proceedings to reflect increases and decreases in its prudently
5 incurred fuel and purchased-power costs, including transportation, **and all**
6 **transmission charges and revenues paid to or received from any**
7 **transmission service provider.** The commission may, in accordance with
8 existing law, include in such rate schedules features designed to provide the
9 electrical corporation with incentives to improve the efficiency and
10 cost-effectiveness of its fuel and purchased-power procurement
11 activities. **Notwithstanding any other provision of this section, an**
12 **electrical corporation may file to amend any such rate schedule that**
13 **had been approved by the commission prior to August 28, 2018, to**
14 **include its transmission charges and revenues paid to or received from**
15 **any transmission service provider, without the necessity of filing a**
16 **general rate proceeding, to the extent the amount of such charges and**
17 **revenues is not already reflected in base rates.**

18 2. Subject to the requirements of this section, any electrical, gas, or water

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

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

36 3. Subject to the requirements of this section, any gas corporation may
37 make an application to the commission to approve rate schedules authorizing
38 periodic rate adjustments outside of general rate proceedings to reflect the nongas
39 revenue effects of increases or decreases in residential and commercial customer
40 usage due to variations in either weather, conservation, or both.

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

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

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

54 (3) In the case of an adjustment mechanism submitted under subsections

55 1 and 2 of this section, includes provisions requiring that the utility file a general
56 rate case with the effective date of new rates to be no later than four years after
57 the effective date of the commission order implementing the adjustment
58 mechanism. However, with respect to each mechanism, the four-year period shall
59 not include any periods in which the utility is prohibited from collecting any
60 charges under the adjustment mechanism, or any period for which charges
61 collected under the adjustment mechanism must be fully refunded. In the event
62 a court determines that the adjustment mechanism is unlawful and all moneys
63 collected thereunder are fully refunded, the utility shall be relieved of any
64 obligation under that adjustment mechanism to file a rate case;

65 (4) In the case of an adjustment mechanism submitted under subsection
66 1 or 2 of this section, includes provisions for prudence reviews of the costs subject
67 to the adjustment mechanism no less frequently than at eighteen-month
68 intervals, and shall require refund of any imprudently incurred costs plus
69 interest at the utility's short-term borrowing rate.

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

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

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

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

85 9. Prior to August 28, 2005, the commission shall have the authority to
86 promulgate rules under the provisions of chapter 536 as it deems necessary, to
87 govern the structure, content and operation of such rate adjustments, and the
88 procedure for the submission, frequency, examination, hearing and approval of
89 such rate adjustments. Such rules shall be promulgated no later than one
90 hundred fifty days after the initiation of such rulemaking proceeding. Any

91 electrical, gas, or water corporation may apply for any adjustment mechanism
92 under this section whether or not the commission has promulgated any such
93 rules.

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

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

100 12. The provisions of this section shall take effect on January 1, 2006, and
101 the commission shall have previously promulgated rules to implement the
102 application process for any rate adjustment mechanism under this section prior
103 to the commission issuing an order for any rate adjustment.

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

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

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

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

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

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

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

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

4 **(2) "Electrical corporation", the same as defined in section**
5 **386.020, but shall not include an electrical corporation as described in**
6 **subsection 2 of section 393.110;**

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

13 **2. On and after the date an electrical corporation files a notice**
14 **under subsection 4 of this section, the electrical corporation shall defer**
15 **to a regulatory asset or liability account any difference in the**
16 **prudently incurred uncapitalized state and local property taxes**
17 **actually incurred, and those used to determine the electrical**
18 **corporation's revenue requirement in its most recently completed**

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

36 3. On and after the effective date of rates in an electrical
37 corporation's next general rate proceeding concluding after the
38 effective date of this section, an electrical corporation that has filed a
39 notice under subsection 4 of this section shall defer to a regulatory
40 asset or liability account any difference in the prudently incurred
41 operations and maintenance expense actually incurred to protect the
42 reliability and security of systems, software, equipment, and facilities
43 connected to or controlling the electric system against physical or
44 cyber-security threats, including but not limited to generating stations,
45 substations, and control centers, and the operations and maintenance
46 expense for such protection used to determine the electrical
47 corporation's revenue requirement in its most recently completed
48 general rate proceeding. The regulatory asset or liability account
49 balances shall be included in the retail revenue requirement used to set
50 rates through an amortization over a reasonable period in such
51 corporation's subsequent general rate proceedings, without any offset,
52 reduction, or adjustment based on consideration of any other
53 factor. The commission shall also adjust the rate base used to establish
54 the retail revenue requirement of such corporation to reflect the
55 unamortized regulatory asset or liability account balances in such

56 general rate proceedings.

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

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

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

4 (2) "Electrical corporation", the same as defined in section
5 386.020, but shall not include an electrical corporation as described in
6 subsection 2 of section 393.110;

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

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

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

28 2. (1) Notwithstanding any other provision of chapter 393 to the
29 contrary, electrical corporations shall defer to a regulatory asset all
30 depreciation expense and return associated with all qualifying electric
31 plant recorded to plant-in-service on the utility's books on or after the
32 effective date of this section. In each general rate proceeding
33 concluded after the effective date of this section, the balance of the

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

44 (2) The regulatory asset balances arising under this section shall
45 be adjusted to reflect any prudence disallowances ordered by the
46 commission. The provisions of this section shall not be construed to
47 affect existing law respecting the burdens of production and persuasion
48 in general rate proceedings for rate base additions.

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

57 3. (1) Depreciation expense deferred under this section shall
58 account for all qualifying electric plant placed into service less
59 retirements of plant replaced by such qualifying electric plant;

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

67 4. Beginning February 28, 2019, and by each February twenty-
68 eighth thereafter, electrical corporations that defer depreciation
69 expense and return authorized under this section shall submit to the
70 commission a five-year capital investment plan setting forth the general

71 categories of capital expenditures the electrical corporation will pursue
72 in furtherance of replacing, modernizing, and securing its
73 infrastructure. The plan shall also include a specific capital investment
74 plan for the first year of the five-year plan consistent with the level of
75 specificity used for annual capital budgeting purposes. Project specific
76 information shall not be included for the five-year period covered by
77 the plan. Within thirty days of the filing of any capital investment plan
78 or annual update to an existing plan, the electrical corporation shall
79 host a public stakeholder meeting to answer questions and receive
80 feedback about the plan. After feedback is received, the electrical
81 corporation shall file a notice with the commission of any modifications
82 to the capital investment plan it has accepted. Changes to the plan, its
83 implementation, or the level of investments made shall not constitute
84 evidence of imprudence of the investments made under such plan. The
85 submission of a capital investment plan under this section shall not
86 affect in any way the commission's authority with respect to the grant
87 or denial of a certificate of convenience and necessity under section
88 393.170.

89 5. This section shall only apply to any electrical corporation that
90 has filed a notice with the commission of the electrical corporation's
91 election to make the deferrals for which this section provides.

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

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

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

12 years after the date the application is submitted; and

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

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

39 2. In each general rate proceeding concluded after the effective
40 date of this section, the reduced level of revenues arising from the
41 application of discounted rates provided for by subsection 1 of this
42 section shall be allocated to all the electrical corporation's customer
43 classes, including the classes with customers that qualify for discounts
44 under this section. This increase shall be implemented through the
45 application of a uniform percentage adjustment to the revenue
46 requirement responsibility of all customer classes. To qualify for the
47 discounted rates provided for in this section, if incremental load is
48 separately metered, customers shall meet the applicable criteria within

49 twenty-four months after the date the meter is permanently set based
50 on metering data for calendar months thirteen through twenty-four and
51 annually thereafter. If such data indicates that the customer did not
52 meet the criteria for any applicable twelve-month period, it shall
53 thereafter no longer qualify for the discounted rate. The provisions of
54 this section do not supersede or limit the ability of an electrical
55 corporation to continue to utilize economic development or retention
56 tariffs previously approved by the commission that are in effect on the
57 effective date of this section. If, however, a customer is receiving any
58 economic development or retention-related discounts as of the date it
59 would otherwise qualify for a discount provided for by this section, the
60 customer shall agree to relinquish the prior discount concurrently with
61 the date it begins to receive a discount under this section; otherwise,
62 the customer shall not be eligible to receive any discount under this
63 section. Customer demand existing at the time the customer begins to
64 receive discounted rates under this section shall not constitute
65 incremental demand. The discounted rates provided for by this section
66 apply only to base rate components, with the charges or credits arising
67 from any rate adjustment mechanism authorized by law to be applied
68 to customers qualifying for discounted rates under this section in the
69 same manner as such rate adjustments would apply in the absence of
70 this section.

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

74 4. This section shall expire on December 31, 2028, except to the
75 extent expressly provided.

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

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

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

9 2. Electrical corporations shall develop a qualification process
10 and make such process open to all contractors seeking to provide

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

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

48 forth in this section to ensure compliance with this subsection.

49 4. Nothing in this section shall be construed as requiring any
50 electrical corporation to use a qualified contractor or competitive
51 bidding process in the case of an emergency project, or to terminate
52 any existing contract with a contractor prior to its expiration, provided
53 that the use of any pre-existing contract for construction or
54 construction-related services for distribution system projects shall not
55 qualify as fulfilling the ten percent requirement set forth in subsection
56 3 of this section. For contractors not qualifying through the
57 competitive bid process, the electrical corporation, upon request from
58 the contractor, shall provide information from the process in which the
59 contractor can be informed as to how to be better positioned to qualify
60 for such bid opportunities in the future.

61 5. By December 31, 2020, and annually thereafter, the commission
62 shall submit a report to the general assembly on the effects of this
63 section, including electrical corporation compliance, potential
64 legislative action regarding this section, the costs of constructing
65 distribution system projects prior to the implementation of this section
66 compared to after the implementation of this section, and any other
67 information regarding the processes established under this section that
68 the commission deems necessary.

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

5 2. Notwithstanding any other provision of law and except as
6 otherwise provided for by this section, an electrical corporation's base
7 rates shall be maintained starting on the date new base rates were
8 established in the electrical corporation's last general rate proceeding
9 concluded prior to the date the electrical corporation gave notice
10 under either subsection 4 of section 393.1275 or subsection 5 of section
11 393.1400 and ending on the third anniversary of that date, unless a
12 force majeure event as determined by the commission occurs. For
13 purposes of this subsection, a "force majeure event" is an event or
14 circumstance that occurs as a result of a weather event, an act of God,
15 war or terrorism, or other uncontrollable event as determined by the
16 commission that causes a reduction in revenues, an increase in the cost

17 of providing electrical service, or some combination thereof, and the
18 event has an associated fiscal impact on the electrical corporation's
19 operations equal to three percent or greater of the total revenue
20 requirement established in the electrical corporation's last general rate
21 proceeding concluded prior to the date the electrical corporation gave
22 a notice under either subsection 4 of section 393.1275 or subsection 5
23 of section 393.1400. Any force majeure event shall be subject to
24 commission review and approval, and shall not preclude the
25 commission from reviewing the prudence of any revenue reductions or
26 costs incurred during any proceeding to set rates.

27 3. If the difference between (a) the electrical corporation's
28 average base rate for all its customers, as set in any general rate
29 proceeding concluding prior to the fifth anniversary of the date
30 referenced in subsection 2 of this section, and (b) the electrical
31 corporation's average base rate for all its customers as set in the
32 electrical corporation's most recent general rate proceeding concluded
33 prior to the date the electrical corporation gave notice under either
34 subsection 4 of section 393.1275 or subsection 5 of section 393.1400,
35 reflects a compound annual growth rate of more than three percent, the
36 electrical corporation shall establish a regulatory liability in the
37 amounts specified in subsection 4 of this section. The regulatory
38 liability shall be amortized over a reasonable period as determined by
39 the commission. A separate regulatory liability is required for each
40 general rate proceeding covered by this subsection for which the three
41 percent threshold provided by this subsection is exceeded.

42 4. A regulatory liability provided in subsection 3 of this section
43 shall be twenty-five million dollars for an electrical corporation with
44 more than one million Missouri retail customers in the year in which
45 this section becomes effective and six million dollars for an electrical
46 corporation with more than two hundred thousand but not more than
47 one million Missouri retail customers in the year in which this section
48 becomes effective.

49 5. If the difference between (a) the electrical corporation's
50 average base rate for all its customers, as set in any general rate
51 proceeding concluding prior to the fifth anniversary of the date
52 referenced in subsection 2 of this section, and (b) the electrical
53 corporation's average base rate for all its customers, as set in the

54 electrical corporation's most recent general rate proceeding concluded
55 prior to the date the electrical corporation gave notice under either
56 subsection 4 of section 393.1275 or subsection 5 of section 393.1400,
57 reflects a compound annual growth rate of more than three and three-
58 quarters percent, the electrical corporation shall, in addition to
59 establishing the regulatory liability as specified in subsections 3 and
60 4 of this section, starting with the effective date of its revised base
61 rates that exceed the three and three-quarters percent threshold
62 provided for in this subsection, cease further deferrals under sections
63 393.1275 and 393.1400, with prior deferrals to be treated as provided in
64 such sections.

65 6. If the difference between (a) the electrical corporation's class
66 average base rate for its large power service rate class as set in any
67 general rate proceeding concluding prior to the fifth anniversary of the
68 date referenced in subsection 2 of this section, and (b) the electrical
69 corporation's class average base rate for its large power service rate
70 class, as set in the electrical corporation's most recent general rate
71 proceeding concluded prior to the date the electrical corporation gave
72 notice under either subsection 4 of section 393.1275 or subsection 5 of
73 section 393.1400, reflects a compound annual growth rate of more than
74 two percent, the class average base rate for the electrical corporation's
75 large power service class shall increase by an amount so that the
76 increase shall equal a compound annual growth rate of two percent
77 over such period, with the reduced revenues arising from limiting the
78 large power service class average base rate increase to two percent to
79 be allocated to all the electrical corporation's other customer classes
80 through the application of a uniform percentage adjustment to the
81 revenue requirement responsibility of all the other customer classes.

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

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

89 (2) "Class average base rate", a rate calculated by dividing the
90 retail revenue requirement from the applicable general rate proceeding

91 that is allocated to the electrical corporation's large power service rate
92 class in that general rate proceeding, by the total sales volumes stated
93 in kilowatt-hours for that class used to set rates in that general rate
94 proceeding, exclusive of gross receipts tax, sales tax, and other similar
95 pass-through taxes;

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

✓

SENATE SUBSTITUTE

FOR

SENATE BILL NO. 564

AN ACT

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

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

1 Section A. Sections 386.266, 386.390, and 393.170, RSMo,
2 are repealed and twelve new sections enacted in lieu thereof, to
3 be known as sections 386.266, 386.390, 393.137, 393.170,
4 393.1400, 393.1610, 393.1640, 393.1650, 393.1655, 393.1665,
5 393.1670, and 1, to read as follows:

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

17 2. Subject to the requirements of this section, any
18 electrical, gas, or water corporation may make an application to

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

22 3. Subject to the requirements of this section, any gas or
23 electrical corporation may make an application to the commission
24 to approve rate schedules authorizing periodic rate adjustments
25 outside of general rate proceedings to [reflect the nongas
26 revenue effects] adjust rates of customers in eligible customer
27 classes to account for the impact on utility revenues of
28 increases or decreases in residential and commercial customer

1 usage due to variations in either weather, conservation, or both.
2 No electrical corporation shall make an application to the
3 commission under this subsection if such corporation has provided
4 notice to the commission under subsection 5 of section 393.1400.
5 For purpose of this section: for electric corporations, eligible
6 customer classes means the residential class and classes that are
7 not demand metered; and for gas corporations, eligible customer
8 classes means the residential class and the smallest general
9 service class. As used in this subsection, "revenues" means the
10 revenues recovered through base rates, and does not include
11 revenues collected through a rate adjustment mechanism authorized
12 by this section or any other provisions of law. This subsection
13 shall apply to electrical corporations beginning January, 1,
14 2018, and shall expire for electrical corporations on January 1,
15 2029.

16 4. The commission shall have the power to approve, modify,
17 or reject adjustment mechanisms submitted under subsections 1 to
18 3 of this section only after providing the opportunity for a full
19 hearing in a general rate proceeding, including a general rate
20 proceeding initiated by complaint. The commission may approve
21 such rate schedules after considering all relevant factors which
22 may affect the costs or overall rates and charges of the
23 corporation, provided that it finds that the adjustment mechanism
24 set forth in the schedules:

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

27 (2) Includes provisions for an annual true-up which shall
28 accurately and appropriately remedy any over- or

1 under-collections, including interest at the utility's short-term
2 borrowing rate, through subsequent rate adjustments or refunds;

3 (3) In the case of an adjustment mechanism submitted under
4 subsections 1 and 2 of this section, includes provisions
5 requiring that the utility file a general rate case with the
6 effective date of new rates to be no later than four years after
7 the effective date of the commission order implementing the
8 adjustment mechanism. However, with respect to each mechanism,
9 the four-year period shall not include any periods in which the
10 utility is prohibited from collecting any charges under the
11 adjustment mechanism, or any period for which charges collected
12 under the adjustment mechanism must be fully refunded. In the
13 event a court determines that the adjustment mechanism is
14 unlawful and all moneys collected thereunder are fully refunded,
15 the utility shall be relieved of any obligation under that
16 adjustment mechanism to file a rate case;

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

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

28 6. Any amounts charged under any adjustment mechanism

1 approved by the commission under this section shall be separately
2 disclosed on each customer bill.

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

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

13 9. [Prior to August 28, 2005,] The commission shall have
14 the authority to promulgate rules under the provisions of chapter
15 536 as it deems necessary, to govern the structure, content and
16 operation of such rate adjustments, and the procedure for the
17 submission, frequency, examination, hearing and approval of such
18 rate adjustments. Such rules shall be promulgated no later than
19 one hundred fifty days after the initiation of such rulemaking
20 proceeding. Any electrical, gas, [or] water, or sewer
21 corporation may apply for any adjustment mechanism under this
22 section whether or not the commission has promulgated any such
23 rules.

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

28 11. Each of the provisions of this section is severable. In

1 the event any provision or subsection of this section is deemed
2 unlawful, all remaining provisions shall remain in effect.

3 12. The [provisions of this section shall take effect on
4 January 1, 2006, and the] commission shall have previously
5 promulgated rules to implement the application process for any
6 rate adjustment mechanism under this section prior to the
7 commission issuing an order for any such rate adjustment.

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

13 14. Each public utility operating under a mechanism
14 proposed and approved under subsections 3 and 4 of this section
15 shall quarterly file a surveillance monitoring, consisting of
16 five parts. Each part, except the rate base quantifications
17 report, shall contain information for the last twelve month
18 period and the last quarter data for total company electric
19 operations and Missouri jurisdictional operations. Rate base
20 quantifications shall contain only information for the ending
21 date of the period being reported. report.

22 (1) Part one of the surveillance monitoring report shall be
23 the rate base quantifications report. The quantification of rate
24 base items in part one shall be consistent with the methods or
25 procedures used in the most recent rate proceeding unless
26 otherwise specified. The report shall consist of specific rate
27 base quantifications of:

28 (a) Plant in service;

- 1 (b) Reserve for depreciation;
2 (c) Materials and supplies;
3 (d) Cash working capital;
4 (e) Fuel inventory, if applicable;
5 (f) Prepayments;
6 (g) Other regulatory assets;
7 (h) Customer advances;
8 (i) Customer deposits;
9 (j) Accumulated deferred income taxes;
10 (k) Any other item included in the electrical corporation's
11 rate base in its most recent rate proceeding;
12 (l) Net operating income from part three; and
13 (m) Calculation of the overall return on rate base.
14 (2) Part two of the surveillance monitoring report shall be
15 the capitalization quantifications report, which shall consist of
16 specific capitalization quantifications of:
17 (a) Common stock equity (net);
18 (b) Preferred stock, par or stated value outstanding;
19 (c) Long-term debt, including current maturities;
20 (d) Short-term debt; and
21 (e) Weighted cost of capital, including component costs.
22 (3) Part three of the surveillance monitoring report shall
23 be the income statement, which shall consist of an income
24 statement containing specific quantification of:
25 (a) Operating revenues to include sales to industrial,
26 commercial, and residential customers, sales for resale, and
27 other components of total operating revenues;
28 (b) Operating and maintenance expenses for fuel expense,

1 production expenses, purchased power energy and capacity, if
2 applicable;

3 (c) Transmission expenses;

4 (d) Distribution expenses;

5 (e) Customer accounts expenses;

6 (f) Customer service and information expenses;

7 (g) Sales expenses;

8 (h) Administrative and general expenses;

9 (i) Depreciation, amortization, and decommissioning
10 expense;

11 (j) Taxes other than income taxes;

12 (k) Income taxes; and

13 (l) Quantification of heating degree and cooling degree
14 days, actual and normal.

15 (4) Part four of the surveillance monitoring report shall
16 be the jurisdictional allocation factor report, which shall
17 consist of a listing of jurisdictional allocation factors for the
18 rate base, capitalization quantification reports, and income
19 statement.

20 (5) Part five of the surveillance monitoring report shall
21 be the financial data notes, which shall consist of notes to
22 financial data including, but not limited to:

23 (a) Out of period adjustments;

24 (b) Specific quantification of material variances between
25 actual and budget financial performance;

26 (c) Material variances between current twelve month period
27 and prior twelve month period revenue;

28 (d) Expense level of items ordered by the commission to be

1 tracked under the order establishing the rate adjustment
2 mechanism;

3 (e) Budgeted capital projects; and

4 (f) Events that materially affect debt or equity
5 surveillance components.

6 (6) This subsection shall expire on January 1, 2029.

7 386.390. 1. Complaint may be made by the commission of its
8 own motion, or by the public counsel or any corporation or
9 person, chamber of commerce, board of trade, or any civic,
10 commercial, mercantile, traffic, agricultural or manufacturing
11 association or organization, or any body politic or municipal
12 corporation, by petition or complaint in writing, setting forth
13 any act or thing done or omitted to be done by any corporation,
14 person or public utility[, including any rule, regulation or
15 charge heretofore established or fixed by or for any corporation,
16 person or public utility,] in violation, or claimed to be in
17 violation, of any provision of law subject to the commission's
18 authority, [or] of any rule promulgated by the commission, of any
19 utility tariff, or of any order or decision of the commission;
20 provided, that no complaint shall be entertained by the
21 commission, except upon its own motion, as to the reasonableness
22 of any rates or charges of any gas, electrical, water, sewer, or
23 telephone corporation, unless the same be signed by the public
24 counsel or the mayor or the president or chairman of the board of
25 aldermen or a majority of the council, commission or other
26 legislative body of any city, town, village or county, within
27 which the alleged violation occurred, or not less than
28 twenty-five consumers or purchasers, or prospective consumers or

1 purchasers, of such gas, electricity, water, sewer or telephone
2 service.

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

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

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

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

26 393.137. 1. This section applies to electrical
27 corporations that do not have a general rate proceeding pending
28 before the commission as of the later of February 1, 2018, or the

1 effective date of this section.

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

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

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

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

1 commission.

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

13 393.170. 1. No gas corporation, electrical corporation,
14 water corporation or sewer corporation shall begin construction
15 of a gas plant, electric plant, water system or sewer system,
16 other than an energy generation unit that has a capacity of one
17 megawatt or less, without first having obtained the permission
18 and approval of the commission.

19 2. No such corporation shall exercise any right or
20 privilege under any franchise hereafter granted, or under any
21 franchise heretofore granted but not heretofore actually
22 exercised, or the exercise of which shall have been suspended for
23 more than one year, without first having obtained the permission
24 and approval of the commission. Before such certificate shall be
25 issued a certified copy of the charter of such corporation shall
26 be filed in the office of the commission, together with a
27 verified statement of the president and secretary of the
28 corporation, showing that it has received the required consent of

1 the proper municipal authorities.

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

11 393.1400. 1. For purposes of this section, the following
12 terms shall mean:

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

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

17 (3) "Qualifying electric plant", all rate base additions,
18 except rate base additions for new coal-fired generating units,
19 new nuclear generating units, new natural gas units, or rate base
20 additions that increase revenues by allowing service to new
21 customer premises;

22 (4) "Rate base cutoff date", the date rate base additions
23 are accounted for in a general rate proceeding. In the absence
24 of a commission order that specifies the rate base cutoff date,
25 such date as reflected in any jointly proposed procedural
26 schedule submitted by the parties in the applicable general rate
27 proceeding, or as otherwise agreed to by such parties, shall be
28 used;

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

12 2. (1) Notwithstanding any other provision of chapter 393
13 to the contrary, electrical corporations shall defer to a
14 regulatory asset ninety percent of all depreciation expense and
15 return associated with all qualifying electric plant recorded to
16 plant-in-service on the utility's books commencing on or after
17 the effective date of this section, if the electrical corporation
18 has made the election provided for by subsection 5 of this
19 section by that date, or on the date such election is made if the
20 election is made after the effective date of this section. In
21 each general rate proceeding concluded after the effective date
22 of this section, the balance of the regulatory asset as of the
23 rate base cutoff date shall be included in the electrical
24 corporation's rate base without any offset, reduction, or
25 adjustment based upon consideration of any other factor, other
26 than as provided for in subdivision (2) of this subsection, with
27 the regulatory asset balance arising from deferrals associated
28 with qualifying electric plant placed in service after the rate

1 base cutoff date to be included in rate base in the next general
2 rate proceeding. The expiration of this section shall not affect
3 the continued inclusion in rate base and amortization of
4 regulatory asset balances that arose under this section prior to
5 such expiration.

6 (2) The regulatory asset balances arising under this
7 section shall be adjusted to reflect any prudence disallowances
8 ordered by the commission. The provisions of this section shall
9 not be construed to affect existing law respecting the burdens of
10 production and persuasion in general rate proceedings for rate
11 base additions.

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

20 3. (1) Depreciation expense deferred under this section
21 shall account for all qualifying electric plant placed into
22 service less retirements of plant replaced by such qualifying
23 electric plant.

24 (2) Return deferred under this section shall be determined
25 using the weighted average cost of capital applied to the change
26 in plant-related rate base caused by the qualifying electric
27 plant, plus applicable federal, state, and local income or excise
28 taxes. In determining the return deferred, the electrical

1 corporation shall account for changes in all plant-related
2 accumulated deferred income taxes and changes in accumulated
3 depreciation, excluding retirements.

4 4. Beginning February 28, 2019, and by each February
5 twenty-eighth thereafter while the electrical corporation is
6 allowed to make the deferrals provided for by subsection 2 of
7 this section, electrical corporations that defer depreciation
8 expense and return authorized under this section shall submit to
9 the commission a five-year capital investment plan setting forth
10 the general categories of capital expenditures the electrical
11 corporation will pursue in furtherance of replacing, modernizing,
12 and securing its infrastructure. The plan shall also include a
13 specific capital investment plan for the first year of the five-
14 year plan consistent with the level of specificity used for
15 annual capital budgeting purposes. For each of the first five
16 years that an electrical corporation is allowed to make the
17 deferrals provided for by subsection 2 of this section, the
18 purchase and installation of smart meters shall constitute no
19 more than thirty percent of the electrical corporation's total
20 capital expenditures during any given year under the
21 corporation's specific capital investment plan. At least thirty
22 percent of the cost of each year's capital investment plan shall
23 be comprised of grid modernization projects, including but not
24 limited to:

25 (1) Increased use of digital information and controls
26 technology to improve reliability, security, and efficiency of
27 the electric grid;

28 (2) Dynamic optimization of grid operations and resources,

1 with full cyber-security;

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

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

6 (5) Deployment of "smart" technologies (real-time,
7 automated, interactive technologies that optimize the physical
8 operation of appliances and consumer devices) for metering,
9 communications, concerning grid operations and status, and
10 distribution automation;

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

12 (7) Deployment and integration of advanced electricity
13 storage and peak-shaving technologies, including plug-in electric
14 and hybrid electric vehicles, and thermal storage air
15 conditioning;

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

18 (9) Development of standards for communication and
19 interoperability of appliances and equipment connected to the
20 electric grid, including the infrastructure serving the grid; and

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

24
25 Project specific information shall not be included for the five-
26 year period covered by the plan. Within thirty days of the
27 filing of any capital investment plan or annual update to an
28 existing plan, the electrical corporation shall host a public

1 stakeholder meeting to answer questions and receive feedback
2 about the plan. After feedback is received, the electrical
3 corporation shall file a notice with the commission of any
4 modifications to the capital investment plan it has accepted.
5 Changes to the plan, its implementation, or the level of
6 investments made shall not constitute evidence of imprudence of
7 the investments made under such plan. The submission of a
8 capital investment plan under this section shall not affect in
9 any way the commission's authority with respect to the grant or
10 denial of a certificate of convenience and necessity under
11 section 393.170. By February twenty-eighth following each year
12 in which the electrical corporation submits a capital investment
13 plan, the electrical corporation shall submit a report to the
14 commission detailing actual capital investments made the previous
15 year.

16 5. This section shall only apply to any electrical
17 corporation that has filed a notice with the commission of the
18 electrical corporation's election to make the deferrals for which
19 this section provides. No electrical corporation shall file a
20 notice with the commission under this subsection if such
21 corporation has made an application under subsection 3 of section
22 386.266, and such application has been approved. An electrical
23 corporation's election shall allow it to make the deferrals
24 provided for by subsection 2 of this section until December 31,
25 2023, unless the electrical corporation requests and the
26 commission approves the continuation of such deferrals beyond
27 that date and approves continuation of the discounts authorized
28 by section 393.1640 beyond that date as hereinafter provided. An

1 electrical corporation that wishes to continue to make the
2 deferrals provided for by subsection 2 of this section from
3 January 1, 2024, through December 31, 2028, shall obtain the
4 commission's approval to do so, shall be subject to the compound
5 annual growth rate limitations set forth under section 393.1655,
6 and shall also obtain the commission's approval to continue to
7 provide the discounts authorized by section 393.1640 in a
8 commission order issued on or before December 31, 2023. The
9 commission shall have the authority to grant or deny such
10 approval based upon the commission's evaluation of the costs and
11 benefits of such continuation to electrical corporations and
12 consumers, but shall not be authorized to condition such approval
13 or otherwise modify the deferrals authorized by subsection 2 of
14 this section, or the discounts authorized by section 393.1640.
15 In deciding whether to extend the program for an additional five
16 years, the commission shall develop an objective analytical
17 framework to determine whether there is a continuing need. The
18 commission shall make a finding about whether there is a
19 continuing need after hearing. Failure to obtain such commission
20 approval shall not affect deferrals made through December 31,
21 2023, or the regulatory and ratemaking treatment of the
22 regulatory assets arising from such deferrals as provided for by
23 this section.

24 6. This section shall expire on December 31, 2028, except
25 that the amortization of the regulatory asset balances arising
26 under this section shall continue to be reflected in the
27 electrical corporation's rates and remaining regulatory asset
28 balances shall be included in the electrical corporation's rate

1 base consistent with the ratemaking treatment and amortization
2 previously approved by the commission pursuant to this section.

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

12 2. For purposes of this section, "electrical corporation"
13 and "commission" shall mean the same as defined in section
14 386.020, but an "electrical corporation" shall not include an
15 electrical corporation as described in subsection 2 of section
16 393.110.

17 393.1640. 1. Subject to the limitations provided for in
18 subsection 2 of this section, and upon proper application by an
19 eligible customer prior to public announcement of a growth
20 project, a new or existing account meeting the following criteria
21 shall be considered for qualification for the discount set forth
22 in this subsection if:

23 (1) The customer adds incremental load, net of any
24 offsetting load reductions due to the termination of other
25 accounts of the customer or an affiliate of the customer within
26 twelve months prior to the commencement of service to the new
27 load, with average monthly demand that is reasonably projected to
28 be at least three hundred kilowatts with a load factor of at

1 least fifty-five percent within two years after the date the
2 application is submitted;

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

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

10
11 The discount shall be a percentage applied to all base rate
12 components of the bill. The percentage shall be fixed for each
13 year of service under the discount for a period of up to five
14 years. Subject to the remaining provisions of this subsection,
15 the average of the annual discount percentages shall equal forty
16 percent and shall not be less than thirty percent nor more than
17 fifty percent in any year. The discount shall be applied to such
18 incremental load from the date when the meter has been
19 permanently set until the date that such incremental load no
20 longer meets the criteria required to qualify for the discount,
21 as determined under the provisions of subsection 2 of this
22 section. An eligible customer shall also receive a ten percent
23 discount of all base rate components of the bill applied to such
24 incremental load for one year after the initial discount period
25 ends if the electrical corporation determines that the customer
26 is taking service from an under-utilized circuit. In no event
27 shall a customer receive a discount under this subsection after
28 the date this section expires. The electrical corporation may

1 include in its tariff additional or alternative terms and
2 conditions to a customer's utilization of the discount, subject
3 to approval of such terms and conditions by the commission. The
4 customer, on forms supplied by the electrical corporation, shall
5 apply for the discount provided for by this subsection at least
6 ninety days prior to the date the customer requests that the
7 incremental demand receive the discounts provided for by this
8 subsection. If the incremental demand is not separately metered,
9 the electrical corporation's determination of the incremental
10 demand shall control. Notwithstanding the foregoing provisions
11 of this subsection, the cents per kilowatt-hour realization
12 resulting from application of any such discounted rate as
13 calculated shall be higher than the electrical corporation's
14 variable cost to serve such accounts in aggregate and the
15 discounted rate also shall make a positive contribution to fixed
16 costs associated with such service. If in a subsequent general
17 rate proceeding the commission determines that application of
18 such discounted rate is not adequate to cover the electrical
19 corporation's variable cost to serve such accounts and provide a
20 positive contribution to fixed costs then the commission shall
21 increase the rate prospectively to the extent necessary to do so.

22 2. In each general rate proceeding concluded after the
23 effective date of this section, the reduced level of revenues
24 arising from the application of discounted rates provided for by
25 subsection 1 of this section shall be allocated to all the
26 electrical corporation's customer classes, including the classes
27 with customers that qualify for discounts under this section.
28 This increase shall be implemented through the application of a

1 uniform percentage adjustment to the revenue requirement
2 responsibility of all customer classes. To qualify for the
3 discounted rates provided for in this section, if incremental
4 load is separately metered, customers shall meet the applicable
5 criteria within twenty-four months after the date the meter is
6 permanently set based on metering data for calendar months
7 thirteen through twenty-four and annually thereafter. If such
8 data indicates that the customer did not meet the criteria for
9 any applicable twelve-month period, it shall thereafter no longer
10 qualify for the discounted rate. The provisions of this section
11 do not supersede or limit the ability of an electrical
12 corporation to continue to utilize economic development or
13 retention tariffs previously approved by the commission that are
14 in effect on the effective date of this section. If, however, a
15 customer is receiving any economic development or retention-
16 related discounts as of the date it would otherwise qualify for a
17 discount provided for by this section, the customer shall agree
18 to relinquish the prior discount concurrently with the date it
19 begins to receive a discount under this section; otherwise, the
20 customer shall not be eligible to receive any discount under this
21 section. Customer demand existing at the time the customer
22 begins to receive discounted rates under this section shall not
23 constitute incremental demand. The discounted rates provided for
24 by this section apply only to base rate components, with the
25 charges or credits arising from any rate adjustment mechanism
26 authorized by law to be applied to customers qualifying for
27 discounted rates under this section in the same manner as such
28 rate adjustments would apply in the absence of this section.

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

5 4. This section shall expire on December 31, 2028,
6 provided, that unless the electrical corporation has timely
7 obtained the order provided for by subsection 5 of section
8 393.1400, the electrical corporation's customers shall, after
9 December 31, 2023, no longer receive the discounts provided under
10 this section.

11 393.1650. 1. For purposes of this section, the following
12 terms shall mean:

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

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

19 2. Electrical corporations shall develop a qualification
20 process and make such process open to all contractors seeking to
21 provide construction and construction-related services for
22 projects on the electrical corporation's distribution system.

23 Contractors shall have the opportunity to register on the
24 electrical corporation's vendor registration site and be
25 evaluated for bid opportunities. Under the qualification
26 process, electrical corporations may specify eligibility
27 requirements typically accepted by the industry, including but
28 not limited to, experience, performance criteria, safety

1 policies, and insurance requirements to be met by any contractor
2 seeking to participate in competitive bidding to provide
3 construction and construction-related services for distribution
4 system projects, and the electrical corporation shall not weight
5 any contractor favorably or unfavorably due to affiliation with a
6 labor organization or union, except if the work is being
7 performed pursuant to a union-only project labor agreement which
8 requires that participating contractors use union represented
9 labor. Contractors that meet the eligibility requirements set by
10 electrical corporations shall be eligible to participate in the
11 competitive bidding process for providing construction and
12 construction-related services for distribution system projects,
13 and the contractor making the lowest and best bid shall be
14 awarded such contract.

15 3. Within thirty days after the effective date of this
16 section, electrical corporations shall file a verified statement
17 with the commission confirming that they have established a
18 qualification process for the competitive bidding of construction
19 and construction-related services for distribution system
20 projects, and that such process conforms with the requirements of
21 this section. The commission shall have the authority to verify
22 the statement to ensure compliance with this section. Whenever
23 the electrical corporation files a general rate proceeding, it
24 shall submit concurrently with its submission of the rate
25 schedules that initiate such general rate proceeding a verified
26 statement confirming that it is using the qualification process
27 for the competitive bidding of construction and construction-
28 related services for distribution system projects required by

1 this section for no less than ten percent of the combined
2 external installation expenditures made by the electrical
3 corporation's operating units in Missouri for construction and
4 construction-related services for distribution system projects,
5 and that such process conforms with the requirements set forth in
6 this section to ensure compliance with this subsection.

7 4. Nothing in this section shall be construed as requiring
8 any electrical corporation to use a qualified contractor or
9 competitive bidding process in the case of an emergency project,
10 or to terminate any existing contract with a contractor prior to
11 its expiration, provided that the use of any pre-existing
12 contract for construction or construction-related services for
13 distribution system projects shall not qualify as fulfilling the
14 ten percent requirement set forth in subsection 3 of this
15 section. For contractors not qualifying through the competitive
16 bid process, the electrical corporation, upon request from the
17 contractor, shall provide information from the process in which
18 the contractor can be informed as to how to be better positioned
19 to qualify for such bid opportunities in the future.

20 5. By December 31, 2020, and annually thereafter, the
21 commission shall submit a report to the general assembly on the
22 effects of this section, including electrical corporation
23 compliance, potential legislative action regarding this section,
24 the costs of constructing distribution system projects prior to
25 the implementation of this section compared to after the
26 implementation of this section, and any other information
27 regarding the processes established under this section that the
28 commission deems necessary.

1 393.1655. 1. This section applies to an electrical
2 corporation that has elected to exercise any option under section
3 393.1400 and that has more than two hundred thousand Missouri
4 retail customers in the year in which this section becomes
5 effective, and shall continue to apply to such electrical
6 corporation until December 31, 2023, if the commission has not
7 issued an order approving continuation of the deferrals
8 authorized by subsection 2 of section 393.1400, and continuation
9 of the discounts authorized by section 393.1640 as authorized by
10 subsection 5 of section 393.1400 with respect to the electrical
11 corporation, or until December 31, 2028, if the commission has
12 issued such an order with respect to the electrical corporation.

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

1 approved rate adjustment mechanisms arising under sections
2 386.266, 393.1030, or 393.1075, or as authorized by any other
3 rate adjustment mechanism authorized by law.

4 3. This subsection shall apply to electrical corporations
5 that have a general rate proceeding pending before the commission
6 as of the later of February 1, 2018, or the effective date of
7 this section. If the difference between (a) the electrical
8 corporation's average overall rate at any point in time while
9 this section applies to the electrical corporation, and (b) the
10 electrical corporation's average overall rate as of the date new
11 base rates are set in the electrical corporation's most recent
12 general rate proceeding concluded prior to the date the
13 electrical corporation gave notice under section 393.1400,
14 reflects a compound annual growth rate of more than three
15 percent, the electrical corporation shall not recover any amount
16 in excess of such three percent as a performance penalty.

17 4. This section shall apply to electrical corporations that
18 do not have a general rate proceeding pending before the
19 commission as of the later of February 1, 2018, or the effective
20 date of this section. If the difference between (a) the
21 electrical corporation's average overall rate at any point in
22 time while this section applies to the electrical corporation,
23 and (b) the average of (i) the electrical corporation's average
24 overall rate as of the date new base rates are set in the
25 electrical corporation's most recent general rate proceeding
26 concluded prior to the date the electrical corporation gave
27 notice under section 393.1400, and (ii) the electrical
28 corporation's average overall rate set under section 393.137,

1 reflects a compound annual growth rate of more than three
2 percent, the electrical corporation shall not recover any amount
3 in excess of such three percent as a performance penalty.

4 5. If a change in any rates charged under a rate adjustment
5 mechanism approved by the commission under sections 386.266 and
6 393.1030 would cause an electrical corporation's average overall
7 rate to exceed the compound annual growth rate limitation set
8 forth in subsection 3 or 4 of this section, the electrical
9 corporation shall reduce the rates charged under that rate
10 adjustment mechanism in an amount sufficient to ensure that the
11 compound annual growth rate limitation set forth in subsection 3
12 or 4 of this section is not exceeded due to the application of
13 the rate charged under such mechanism and the performance
14 penalties under such subsections are not triggered. Sums not
15 recovered under any such mechanism because of any reduction in
16 rates under such a mechanism pursuant to this subsection shall be
17 deferred to and included in the regulatory asset arising under
18 section 393.1400 or, if applicable, under the regulatory and
19 ratemaking treatment ordered by the commission under subsection 6
20 of section 393.1400 and subsection 4 of section 393.1640, and
21 recovered through an amortization in base rates in the same
22 manner as deferrals under that section or order are recovered in
23 base rates.

24 6. If the difference between (a) the electrical
25 corporation's class average overall rate at any point in time
26 while this section applies to the electrical corporation, and (b)
27 the electrical corporation's class average overall rate as of the
28 date rates are set in the electrical corporation's most recent

1 general rate proceeding concluded prior to the date the
2 electrical corporation gave notice under either subsection 4 of
3 section 393.1275 or subsection 5 of section 393.1400, reflects a
4 compound annual growth rate of more than two percent for the
5 large power service rate class, the class average overall rate
6 shall increase by an amount so that the increase shall equal a
7 compound annual growth rate of two percent over such period for
8 such large power service rate class, with the reduced revenues
9 arising from limiting the large power service class average
10 overall rate increase to two percent to be allocated to all the
11 electrical corporation's other customer classes through the
12 application of a uniform percentage adjustment to the revenue
13 requirement responsibility of all the other customer classes.

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

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

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

24 (3) "Average rider rate", a rate calculated by dividing the
25 total of the sums to be recovered from all customer classes under
26 the electrical corporation's rate adjustment mechanisms in place
27 other than a rate adjustment mechanism under section 393.1075 by
28 the total sales volumes stated in kilowatt-hours for all of the

1 electrical corporation's rate classes used to set rates under
2 such rate adjustment mechanisms, exclusive of gross receipts tax,
3 sales tax, and other similar pass-through taxes;

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

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

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

22 (7) "Force majeure event", an event or circumstance that
23 occurs as a result of a weather event, an act of God, war, or
24 terrorism that causes a reduction in revenues, an increase in the
25 cost of providing electrical service, or some combination
26 thereof, and the event has an associated fiscal impact on the
27 electrical corporation's operations equal to three percent or
28 greater of the total revenue requirement established in the

1 electrical corporation's last general rate proceeding after
2 taking into account the financial impact specified in section
3 393.137. Any force majeure event shall be subject to commission
4 review and approval, and shall not preclude the commission from
5 reviewing the prudence of any revenue reductions or costs
6 incurred during any proceeding to set rates;

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

13 393.1665. 1. For purposes of this section, "electrical
14 corporation" shall mean the same as defined in section 386.020,
15 but shall not include an electrical corporation as described in
16 subsection 2 of section 393.110.

17 2. An electrical corporation with one million or more
18 Missouri electric customers shall invest in the aggregate no less
19 than fourteen million dollars in utility-owned solar facilities
20 located in Missouri or in an adjacent state during the period
21 between the effective date of this section and December 31, 2023.
22 An electrical corporation with less than one million but more
23 than two-hundred thousand Missouri electric customers shall
24 invest in the aggregate no less than four million dollars in
25 utility-owned solar facilities located in Missouri or in an
26 adjacent state during the period between the effective date of
27 this section and December 31, 2023. An electrical corporation
28 with two hundred thousand or fewer Missouri electric customers

1 shall invest in the aggregate no less than three million five
2 hundred thousand dollars in utility-owned solar facilities
3 located in Missouri or in an adjacent state during the period
4 between the effective date of this section and December 31, 2023.
5 If the rate impact of the electrical corporation's investment in
6 such facilities would cause the electrical corporation to exceed
7 the one percent maximum average retail rate increase limitation
8 required by subdivision (1) Of subsection 2 of section 393.1030,
9 that part of such costs that would cause such one percent
10 limitation to be exceeded shall be deferred by the electrical
11 corporation to a regulatory asset. Carrying costs at the
12 electrical corporation's weighted average cost of capital shall
13 be added to the regulatory asset balance and the regulatory asset
14 shall be recovered through rates set under section 393.150 or
15 through a rate adjustment mechanism under section 393.1030 as
16 soon as is practical.

17 3. An electrical corporation's decision to invest in
18 utility-owned solar facilities consistent with subsection 2 of
19 this section shall be deemed to be prudent. An electrical
20 corporation shall not be required to obtain the permission of the
21 commission to construct the facilities required by this section,
22 notwithstanding the provisions of section 393.170. The
23 commission shall retain the authority to review the specific
24 costs incurred to construct and own the facilities to ensure that
25 rates are based only on prudently incurred costs.

26 4. Nothing in this section shall preclude an electrical
27 corporation from recovering costs of investing in or purchasing

1 electricity from additional solar facilities beyond those
2 provided for under subsection 2 of this section.

3 5. This section shall expire on December 31, 2023, provided
4 that after such expiration the electrical corporation shall be
5 entitled to recover any remaining regulatory asset balance as
6 provided in subsection 2 of this section.

7 393.1670. 1. Notwithstanding the provisions of subdivision
8 (1) of subsection 2 of section 393.1030 and section 393.1045 to
9 the contrary, and subject to the limitations provided for in this
10 section, an electrical corporation shall, commencing January 1,
11 2019, make solar rebates available in the amounts specified in
12 this section. For systems becoming operational between January
13 1, 2019, and June 30, 2019, the solar rebate shall be fifty cents
14 per watt, and for systems that become operational after June 30,
15 2019, through December 31, 2023, the solar rebate shall be
16 twenty-five cents per watt. The rebates provided for by this
17 section shall apply to new or expanded solar electric systems up
18 to a maximum of twenty-five kilowatts per system for residential
19 customers and up to one hundred fifty kilowatts per system for
20 nonresidential customers. Customers shall be eligible for
21 rebates on new or expanded systems for the increment of new or
22 extended capacity and not for capacity on which rebates offered
23 under any other provision of law have previously been paid, up to
24 the system kilowatt limits set forth in this section. However,
25 an electrical corporation's obligation to make solar rebate
26 payments under this section shall not exceed the following
27 limitations:

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

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

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

21 2. At its election, the electrical corporation shall be
22 permitted to recover the cost of all solar rebate payments it has
23 made through either base rates or through a rate adjustment
24 mechanism under section 393.1030, and shall, also at its
25 election, be permitted to defer and amortize the recovery of such
26 costs, including interest at the electric corporation's short-
27 term borrowing rate, through either base rates or a surcharge
28 over a period of the electrical corporation's choice not to

1 exceed five years; provided that, if recovery of such costs in
2 such manner and over such a time period would cause the
3 electrical corporation to exceed the one percent maximum average
4 retail rate increase limitation required by subdivision (1) of
5 subsection 2 of section 393.1030, that part of recovery of such
6 costs that would exceed such one percent limitation shall be
7 deferred by the electrical corporation to a regulatory asset, to
8 which carrying costs at the electrical corporation's weighted
9 average cost of capital shall be added and recovered through base
10 rates or through a rate adjustment mechanism under section
11 393.1030 as soon as practicable.

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

19 4. Reductions in electrical corporation loads as a result
20 of the installation of solar systems not owned by the electrical
21 corporation that provide electricity to the electrical
22 corporation's customers constitute conservation.

23 5. The commission shall have the authority to promulgate
24 rules for the implementation of this section, but only to the
25 extent that such rules are consistent with, and do not delay the
26 implementation of, the provisions of this section. Any rule or
27 portion of a rule, as that term is defined in section 536.010
28 that is created under the authority delegated in this section

1 shall become effective only if it complies with and is subject to
2 all of the provisions of chapter 536, and, if applicable, section
3 536.028. This section and chapter 536 are nonseverable and if
4 any of the powers vested with the general assembly pursuant to
5 chapter 536, to review, to delay the effective date, or to
6 disapprove and annul a rule are subsequently held
7 unconstitutional, then the grant of rulemaking authority and any
8 rule proposed or adopted after August 28, 2018, shall be invalid
9 and void.

10 6. For purposes of this section, "electrical corporation"
11 and "commission" shall mean the same as defined in section
12 386.020, but an "electrical corporation" shall not include an
13 electrical corporation as described in subsection 2 of section
14 393.110.

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

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

24 Section B. Because immediate action is necessary to reduce
25 the electric bills of consumers due to the implementation of
26 federal tax cuts, the enactment of section 393.137 of this act is
27 deemed necessary for the immediate preservation of the public
28 health, welfare, peace and safety, and is hereby declared to be

1 an emergency act within the meaning of the constitution, and the
2 enactment of section 393.137 of this act shall be in full force
3 and effect upon its passage and approval.

SENATE AMENDMENT NO. _____

Offered by _____ Of _____

Amend SS/Senate Bill No. 564, Page 3, Section 386.266, Line 5

2 of said page, by striking "purpose" and inserting in lieu thereof
 3 the following: "purposes"; and further amend said line by
 4 striking the word "electric" and inserting in lieu thereof the
 5 following: "electrical"; and further amend line 14, by striking
 6 "2018" and inserting in lieu thereof the following: "2019"; and

7 Further amend said bill and section, page 5, line 20 of said
 8 page, by striking the opening and closing brackets and the
 9 underlined language; and

10 Further amend said bill and section, page 6, line 14, by
 11 striking "subsections 3 and 4" and inserting in lieu thereof the
 12 following: "subsection 3"; and further amend line 21 by striking
 13 the word "report."; and

14 Further amend said bill, page 14, section 393.1400, line 14
 15 of said page, by striking "ninety" and inserting in lieu thereof
 16 the following: "eighty-five"; and

17 Further amend said bill and section, page 16, line 19 of
 18 said page, by striking "thirty" and inserting in lieu thereof the
 19 following: "six"; and further amend line 21, by striking "thirty"
 20 and inserting in lieu thereof the following: "twenty-five"; and

21 Further amend said bill and section, page 17, line 25 of

1 said page, by striking "shall" and inserting in lieu thereof the
2 following: "need"; and

3 Further amend said bill, page 29, section 393.1655, line 1
4 of said page, by striking "three" and inserting in lieu thereof
5 the following: "two and eighty-five hundredths"; and further
6 amend line 3, by striking "three" and inserting in lieu thereof
7 the following: "two and eighty-five hundredths"; and further
8 amend line 19 by striking "subsection 6"; and further amend line
9 20 by striking all of said line and inserting in lieu thereof the
10 following: "section 393.1400, and"; and

11 Further amend said bill and section, page 30, lines 2-3, by
12 striking "either subsection 4 of section 393.1275 or"; and

13 Further amend said bill and section, page 31, lines 23-24 of
14 said page, by striking "or terrorism" and inserting in lieu
15 thereof the following: "terrorism, or other event which threatens
16 the financial integrity of the electrical corporation".

SECOND REGULAR SESSION
[P E R F E C T E D]
SENATE SUBSTITUTE NO. 5 FOR

SENATE BILL NO. 564

99TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR EMERY.

Offered February 7, 2018.

Senate Substitute No. 5 adopted, February 7, 2018.

Taken up for Perfection February 7, 2018. Bill declared Perfected and Ordered Printed, as amended.

ADRIANE D. CROUSE, Secretary.

5027S.11P

AN ACT

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

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

Section A. Sections 386.266, 386.390, and 393.170, RSMo, are repealed

2 and twelve new sections enacted in lieu thereof, to be known as sections 386.266,
3 386.390, 393.137, 393.170, 393.1400, 393.1610, 393.1640, 393.1650, 393.1655,
4 393.1665, 393.1670, and 1, to read as follows:

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

10 2. Subject to the requirements of this section, any electrical, gas, or water
11 corporation may make an application to the commission to approve rate schedules
12 authorizing periodic rate adjustments outside of general rate proceedings to

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

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

28 3. Subject to the requirements of this section, any gas or electrical
29 corporation may make an application to the commission to approve rate schedules
30 authorizing periodic rate adjustments outside of general rate proceedings to
31 **[reflect the nongas revenue effects] adjust rates of customers in eligible**
32 **customer classes to account for the impact on utility revenues of**
33 **increases or decreases in residential and commercial customer usage due to**
34 **variations in either weather, conservation, or both. No electrical corporation**
35 **shall make an application to the commission under this subsection if**
36 **such corporation has provided notice to the commission under**
37 **subsection 5 of section 393.1400. For purposes of this section: for**
38 **electrical corporations, eligible customer classes means the residential**
39 **class and classes that are not demand metered; and for gas**
40 **corporations, eligible customer classes means the residential class and**
41 **the smallest general service class. As used in this subsection,**
42 **"revenues" means the revenues recovered through base rates, and does**
43 **not include revenues collected through a rate adjustment mechanism**
44 **authorized by this section or any other provisions of law. This**
45 **subsection shall apply to electrical corporations beginning January 1,**
46 **2019, and shall expire for electrical corporations on January 1, 2029.**

47 4. The commission shall have the power to approve, modify, or reject
48 adjustment mechanisms submitted under subsections 1 to 3 of this section only

49 after providing the opportunity for a full hearing in a general rate proceeding,
50 including a general rate proceeding initiated by complaint. The commission may
51 approve such rate schedules after considering all relevant factors which may
52 affect the costs or overall rates and charges of the corporation, provided that it
53 finds that the adjustment mechanism set forth in the schedules:

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

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

60 (3) In the case of an adjustment mechanism submitted under subsections
61 1 and 2 of this section, includes provisions requiring that the utility file a general
62 rate case with the effective date of new rates to be no later than four years after
63 the effective date of the commission order implementing the adjustment
64 mechanism. However, with respect to each mechanism, the four-year period shall
65 not include any periods in which the utility is prohibited from collecting any
66 charges under the adjustment mechanism, or any period for which charges
67 collected under the adjustment mechanism must be fully refunded. In the event
68 a court determines that the adjustment mechanism is unlawful and all moneys
69 collected thereunder are fully refunded, the utility shall be relieved of any
70 obligation under that adjustment mechanism to file a rate case;

71 (4) In the case of an adjustment mechanism submitted under subsection
72 1 or 2 of this section, includes provisions for prudence reviews of the costs subject
73 to the adjustment mechanism no less frequently than at eighteen-month
74 intervals, and shall require refund of any imprudently incurred costs plus
75 interest at the utility's short-term borrowing rate.

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

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

83 7. The commission may take into account any change in business risk to
84 the corporation resulting from implementation of the adjustment mechanism in

85 setting the corporation's allowed return in any rate proceeding, in addition to any
86 other changes in business risk experienced by the corporation.

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

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

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

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

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

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

114 14. **Each public utility operating under a mechanism proposed**
115 **and approved under subsection 3 of this section shall quarterly file a**
116 **surveillance monitoring, consisting of five parts. Each part, except the**
117 **rate base quantifications report, shall contain information for the last**
118 **twelve month period and the last quarter data for total company**
119 **electric operations and Missouri jurisdictional operations. Rate base**
120 **quantifications shall contain only information for the ending date of**

121 the period being reported.

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

- 127 (a) Plant in service;
- 128 (b) Reserve for depreciation;
- 129 (c) Materials and supplies;
- 130 (d) Cash working capital;
- 131 (e) Fuel inventory, if applicable;
- 132 (f) Prepayments;
- 133 (g) Other regulatory assets;
- 134 (h) Customer advances;
- 135 (i) Customer deposits;
- 136 (j) Accumulated deferred income taxes;
- 137 (k) Any other item included in the electrical corporation's rate
138 base in its most recent rate proceeding;
- 139 (l) Net operating income from part three; and
- 140 (m) Calculation of the overall return on rate base.

141 (2) Part two of the surveillance monitoring report shall be the
142 capitalization quantifications report, which shall consist of specific
143 capitalization quantifications of:

- 144 (a) Common stock equity (net);
- 145 (b) Preferred stock, par or stated value outstanding;
- 146 (c) Long-term debt, including current maturities;
- 147 (d) Short-term debt; and
- 148 (e) Weighted cost of capital, including component costs.

149 (3) Part three of the surveillance monitoring report shall be the
150 income statement, which shall consist of an income statement
151 containing specific quantification of:

152 (a) Operating revenues to include sales to industrial,
153 commercial, and residential customers, sales for resale, and other
154 components of total operating revenues;

155 (b) Operating and maintenance expenses for fuel expense,
156 production expenses, purchased power energy and capacity, if
157 applicable;

- 158 (c) Transmission expenses;
159 (d) Distribution expenses;
160 (e) Customer accounts expenses;
161 (f) Customer service and information expenses;
162 (g) Sales expenses;
163 (h) Administrative and general expenses;
164 (i) Depreciation, amortization, and decommissioning expense;
165 (j) Taxes other than income taxes;
166 (k) Income taxes; and
167 (l) Quantification of heating degree and cooling degree days,
168 actual and normal.
- 169 (4) Part four of the surveillance monitoring report shall be the
170 jurisdictional allocation factor report, which shall consist of a listing
171 of jurisdictional allocation factors for the rate base, capitalization
172 quantification reports, and income statement.
- 173 (5) Part five of the surveillance monitoring report shall be the
174 financial data notes, which shall consist of notes to financial data
175 including, but not limited to:
- 176 (a) Out of period adjustments;
177 (b) Specific quantification of material variances between actual
178 and budget financial performance;
179 (c) Material variances between current twelve month period and
180 prior twelve month period revenue;
181 (d) Expense level of items ordered by the commission to be
182 tracked under the order establishing the rate adjustment mechanism;
183 (e) Budgeted capital projects; and
184 (f) Events that materially affect debt or equity surveillance
185 components.
- 186 (6) This subsection shall expire on January 1, 2029.

386.390. 1. Complaint may be made by the commission of its own motion,
2 or by the public counsel or any corporation or person, chamber of commerce,
3 board of trade, or any civic, commercial, mercantile, traffic, agricultural or
4 manufacturing association or organization, or any body politic or municipal
5 corporation, by petition or complaint in writing, setting forth any act or thing
6 done or omitted to be done by any corporation, person or public utility[, including
7 any rule, regulation or charge heretofore established or fixed by or for any
8 corporation, person or public utility,] in violation, or claimed to be in violation,

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

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

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

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

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

393.137. 1. This section applies to electrical corporations that do
2 **not have a general rate proceeding pending before the commission as**
3 **of the later of February 1, 2018, or the 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**
7 **386.020, but shall not include an electrical corporation as described in**

8 subsection 2 of section 393.110.

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

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

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

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

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

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

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

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

4 (2) "Electrical corporation", the same as defined in section
5 386.020, but shall not include an electrical corporation as described in
6 subsection 2 of section 393.110;

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

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

17 (5) "Weighted average cost of capital", the return on rate base
18 used to determine the revenue requirement in the electrical
19 corporation's most recently completed general rate proceeding;
20 provided, that in the absence of a commission determination of the
21 return on rate base within the three-year period prior to the effective

22 date of this section, the weighted average cost of capital shall be
23 determined using the electrical corporation's actual capital structure
24 as of December 31, 2017, excluding short-term debt, the electrical
25 corporation's actual cost of long-term debt and preferred stock as of
26 December 31, 2017, and a cost of common equity of nine and one-half
27 percent.

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

47 (2) The regulatory asset balances arising under this section shall
48 be adjusted to reflect any prudence disallowances ordered by the
49 commission. The provisions of this section shall not be construed to
50 affect existing law respecting the burdens of production and persuasion
51 in general rate proceedings for rate base additions.

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

59 amortization take effect.

60 3. (1) Depreciation expense deferred under this section shall
61 account for all qualifying electric plant placed into service less
62 retirements of plant replaced by such qualifying electric plant.

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

70 4. Beginning February 28, 2019, and by each February twenty-
71 eighth thereafter while the electrical corporation is allowed to make
72 the deferrals provided for by subsection 2 of this section, electrical
73 corporations that defer depreciation expense and return authorized
74 under this section shall submit to the commission a five-year capital
75 investment plan setting forth the general categories of capital
76 expenditures the electrical corporation will pursue in furtherance of
77 replacing, modernizing, and securing its infrastructure. The plan shall
78 also include a specific capital investment plan for the first year of the
79 five-year plan consistent with the level of specificity used for annual
80 capital budgeting purposes. For each of the first five years that an
81 electrical corporation is allowed to make the deferrals provided for by
82 subsection 2 of this section, the purchase and installation of smart
83 meters shall constitute no more than six percent of the electrical
84 corporation's total capital expenditures during any given year under
85 the corporation's specific capital investment plan. At least twenty-five
86 percent of the cost of each year's capital investment plan shall be
87 comprised of grid modernization projects, including but not limited to:

88 (1) Increased use of digital information and controls technology
89 to improve reliability, security, and efficiency of the electric grid;

90 (2) Dynamic optimization of grid operations and resources, with
91 full cyber-security;

92 (3) Deployment and integration of distributed resources and
93 generation, including renewable resources;

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

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

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

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

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

106 (9) Development of standards for communication and
107 interoperability of appliances and equipment connected to the electric
108 grid, including the infrastructure serving the grid; and

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

111 Project specific information need not be included for the five-year
112 period covered by the plan. Within thirty days of the filing of any
113 capital investment plan or annual update to an existing plan, the
114 electrical corporation shall host a public stakeholder meeting to
115 answer questions and receive feedback about the plan. After feedback
116 is received, the electrical corporation shall file a notice with the
117 commission of any modifications to the capital investment plan it has
118 accepted. Changes to the plan, its implementation, or the level of
119 investments made shall not constitute evidence of imprudence of the
120 investments made under such plan. The submission of a capital
121 investment plan under this section shall not affect in any way the
122 commission's authority with respect to the grant or denial of a
123 certificate of convenience and necessity under section 393.170. By
124 February twenty-eighth following each year in which the electrical
125 corporation submits a capital investment plan, the electrical
126 corporation shall submit a report to the commission detailing actual
127 capital investments made the previous year.

128 5. This section shall only apply to any electrical corporation that
129 has filed a notice with the commission of the electrical corporation's
130 election to make the deferrals for which this section provides. No
131 electrical corporation shall file a notice with the commission under this
132 subsection if such corporation has made an application under

133 subsection 3 of section 386.266, and such application has been
134 approved. An electrical corporation's election shall allow it to make
135 the deferrals provided for by subsection 2 of this section until
136 December 31, 2023, unless the electrical corporation requests and the
137 commission approves the continuation of such deferrals beyond that
138 date and approves continuation of the discounts authorized by section
139 393.1640 beyond that date as hereinafter provided. An electrical
140 corporation that wishes to continue to make the deferrals provided for
141 by subsection 2 of this section from January 1, 2024, through December
142 31, 2028, shall obtain the commission's approval to do so, shall be
143 subject to the compound annual growth rate limitations set forth under
144 section 393.1655, and shall also obtain the commission's approval to
145 continue to provide the discounts authorized by section 393.1640 in a
146 commission order issued on or before December 31, 2023. The
147 commission shall have the authority to grant or deny such approval
148 based upon the commission's evaluation of the costs and benefits of
149 such continuation to electrical corporations and consumers, but shall
150 not be authorized to condition such approval or otherwise modify the
151 deferrals authorized by subsection 2 of this section, or the discounts
152 authorized by section 393.1640. In deciding whether to extend the
153 program for an additional five years, the commission shall develop an
154 objective analytical framework to determine whether there is a
155 continuing need. The commission shall make a finding about whether
156 there is a continuing need after hearing. Failure to obtain such
157 commission approval shall not affect deferrals made through December
158 31, 2023, or the regulatory and ratemaking treatment of the regulatory
159 assets arising from such deferrals as provided for by this section.

160 6. This section shall expire on December 31, 2028, except that the
161 amortization of the regulatory asset balances arising under this section
162 shall continue to be reflected in the electrical corporation's rates and
163 remaining regulatory asset balances shall be included in the electrical
164 corporation's rate base consistent with the ratemaking treatment and
165 amortization previously approved by the commission pursuant to this
166 section.

393.1610. 1. The commission may approve investments by an
2 electrical corporation in small scale or pilot innovative technology
3 projects, including but not limited to renewable generation, micro

4 grids, or energy storage, if the small scale or pilot project is designed
5 to advance the electrical corporation's operational knowledge of
6 deploying such technologies, including to gain operating efficiencies
7 that result in customer savings and benefits as the technology is scaled
8 across the grid or network.

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

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

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

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

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

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

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

55 2. In each general rate proceeding concluded after the effective
56 date of this section, the reduced level of revenues arising from the
57 application of discounted rates provided for by subsection 1 of this
58 section shall be allocated to all the electrical corporation's customer
59 classes, including the classes with customers that qualify for discounts
60 under this section. This increase shall be implemented through the
61 application of a uniform percentage adjustment to the revenue
62 requirement responsibility of all customer classes. To qualify for the
63 discounted rates provided for in this section, if incremental load is
64 separately metered, customers shall meet the applicable criteria within
65 twenty-four months after the date the meter is permanently set based

66 on metering data for calendar months thirteen through twenty-four and
67 annually thereafter. If such data indicates that the customer did not
68 meet the criteria for any applicable twelve-month period, it shall
69 thereafter no longer qualify for the discounted rate. The provisions of
70 this section do not supersede or limit the ability of an electrical
71 corporation to continue to utilize economic development or retention
72 tariffs previously approved by the commission that are in effect on the
73 effective date of this section. If, however, a customer is receiving any
74 economic development or retention-related discounts as of the date it
75 would otherwise qualify for a discount provided for by this section, the
76 customer shall agree to relinquish the prior discount concurrently with
77 the date it begins to receive a discount under this section; otherwise,
78 the customer shall not be eligible to receive any discount under this
79 section. Customer demand existing at the time the customer begins to
80 receive discounted rates under this section shall not constitute
81 incremental demand. The discounted rates provided for by this section
82 apply only to base rate components, with the charges or credits arising
83 from any rate adjustment mechanism authorized by law to be applied
84 to customers qualifying for discounted rates under this section in the
85 same manner as such rate adjustments would apply in the absence of
86 this section.

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

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

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

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

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

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

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

46 construction and construction-related services for distribution system
47 projects, and that such process conforms with the requirements set
48 forth in this section to ensure compliance with this subsection.

49 4. Nothing in this section shall be construed as requiring any
50 electrical corporation to use a qualified contractor or competitive
51 bidding process in the case of an emergency project, or to terminate
52 any existing contract with a contractor prior to its expiration, provided
53 that the use of any pre-existing contract for construction or
54 construction-related services for distribution system projects shall not
55 qualify as fulfilling the ten percent requirement set forth in subsection
56 3 of this section. For contractors not qualifying through the
57 competitive bid process, the electrical corporation, upon request from
58 the contractor, shall provide information from the process in which the
59 contractor can be informed as to how to be better positioned to qualify
60 for such bid opportunities in the future.

61 5. By December 31, 2020, and annually thereafter, the commission
62 shall submit a report to the general assembly on the effects of this
63 section, including electrical corporation compliance, potential
64 legislative action regarding this section, the costs of constructing
65 distribution system projects prior to the implementation of this section
66 compared to after the implementation of this section, and any other
67 information regarding the processes established under this section that
68 the commission deems necessary.

393.1655. 1. This section applies to an electrical corporation that
2 has elected to exercise any option under section 393.1400 and that has
3 more than two hundred thousand Missouri retail customers in the year
4 in which this section becomes effective, and shall continue to apply to
5 such electrical corporation until December 31, 2023, if the commission
6 has not issued an order approving continuation of the deferrals
7 authorized by subsection 2 of section 393.1400, and continuation of the
8 discounts authorized by section 393.1640 as authorized by subsection
9 5 of section 393.1400 with respect to the electrical corporation, or until
10 December 31, 2028, if the commission has issued such an order with
11 respect to the electrical corporation.

12 2. Notwithstanding any other provision of law and except as
13 otherwise provided for by this section, an electrical corporation's base
14 rates shall be held constant for a period starting on the date new base

15 rates were established in the electrical corporation's last general rate
16 proceeding concluded prior to the date the electrical corporation gave
17 notice under subsection 5 of section 393.1400 and ending on the third
18 anniversary of that date, unless a force majeure event as determined
19 by the commission occurs. Whether a force majeure event has occurred
20 shall be subject to commission review and approval in a general rate
21 proceeding, and shall not preclude the commission from reviewing the
22 prudence of any revenue reductions or costs incurred during any
23 proceeding to set rates. This subsection shall not affect the electrical
24 corporation's ability to adjust its nonbase rates during the three-year
25 period provided for in this subsection as authorized by its commission-
26 approved rate adjustment mechanisms arising under sections 386.266,
27 393.1030, or 393.1075, or as authorized by any other rate adjustment
28 mechanism authorized by law.

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

41 4. This section shall apply to electrical corporations that do not
42 have a general rate proceeding pending before the commission as of the
43 later of February 1, 2018, or the effective date of this section. If the
44 difference between (a) the electrical corporation's average overall rate
45 at any point in time while this section applies to the electrical
46 corporation, and (b) the average of (i) the electrical corporation's
47 average overall rate as of the date new base rates are set in the
48 electrical corporation's most recent general rate proceeding concluded
49 prior to the date the electrical corporation gave notice under section
50 393.1400, and (ii) the electrical corporation's average overall rate set
51 under section 393.137, reflects a compound annual growth rate of more

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

55 5. If a change in any rates charged under a rate adjustment
56 mechanism approved by the commission under sections 386.266 and
57 393.1030 would cause an electrical corporation's average overall rate
58 to exceed the compound annual growth rate limitation set forth in
59 subsection 3 or 4 of this section, the electrical corporation shall reduce
60 the rates charged under that rate adjustment mechanism in an amount
61 sufficient to ensure that the compound annual growth rate limitation
62 set forth in subsection 3 or 4 of this section is not exceeded due to the
63 application of the rate charged under such mechanism and the
64 performance penalties under such subsections are not triggered. Sums
65 not recovered under any such mechanism because of any reduction in
66 rates under such a mechanism pursuant to this subsection shall be
67 deferred to and included in the regulatory asset arising under section
68 393.1400 or, if applicable, under the regulatory and ratemaking
69 treatment ordered by the commission under section 393.1400, and
70 recovered through an amortization in base rates in the same manner
71 as deferrals under that section or order are recovered in base rates.

72 6. If the difference between (a) the electrical corporation's class
73 average overall rate at any point in time while this section applies to
74 the electrical corporation, and (b) the electrical corporation's class
75 average overall rate as of the date rates are set in the electrical
76 corporation's most recent general rate proceeding concluded prior to
77 the date the electrical corporation gave notice under subsection 5 of
78 section 393.1400, reflects a compound annual growth rate of more than
79 two percent for the large power service rate class, the class average
80 overall rate shall increase by an amount so that the increase shall
81 equal a compound annual growth rate of two percent over such period
82 for such large power service rate class, with the reduced revenues
83 arising from limiting the large power service class average overall rate
84 increase to two percent to be allocated to all the electrical
85 corporation's other customer classes through the application of a
86 uniform percentage adjustment to the revenue requirement
87 responsibility of all the other customer classes.

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

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

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

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

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

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

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

122 (7) "Force majeure event", an event or circumstance that occurs
123 as a result of a weather event, an act of God, war, terrorism, or other
124 event which threatens the financial integrity of the electrical
125 corporation that causes a reduction in revenues, an increase in the cost

126 of providing electrical service, or some combination thereof, and the
127 event has an associated fiscal impact on the electrical corporation's
128 operations equal to three percent or greater of the total revenue
129 requirement established in the electrical corporation's last general rate
130 proceeding after taking into account the financial impact specified in
131 section 393.137. Any force majeure event shall be subject to commission
132 review and approval, and shall not preclude the commission from
133 reviewing the prudence of any revenue reductions or costs incurred
134 during any proceeding to set rates;

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

393.1665. 1. For purposes of this section, "electrical corporation"
2 shall mean the same as defined in section 386.020, but shall not include
3 an electrical corporation as described in subsection 2 of section
4 393.110.

5 2. An electrical corporation with one million or more Missouri
6 electric customers shall invest in the aggregate no less than fourteen
7 million dollars in utility-owned solar facilities located in Missouri or in
8 an adjacent state during the period between the effective date of this
9 section and December 31, 2023. An electrical corporation with less than
10 one million but more than two-hundred thousand Missouri electric
11 customers shall invest in the aggregate no less than four million dollars
12 in utility-owned solar facilities located in Missouri or in an adjacent
13 state during the period between the effective date of this section and
14 December 31, 2023. An electrical corporation with two hundred
15 thousand or fewer Missouri electric customers shall invest in the
16 aggregate no less than three million five hundred thousand dollars in
17 utility-owned solar facilities located in Missouri or in an adjacent state
18 during the period between the effective date of this section and
19 December 31, 2023. If the rate impact of the electrical corporation's
20 investment in such facilities would cause the electrical corporation to
21 exceed the one percent maximum average retail rate increase
22 limitation required by subdivision (1) of subsection 2 of section
23 393.1030, that part of such costs that would cause such one percent

24 limitation to be exceeded shall be deferred by the electrical corporation
25 to a regulatory asset. Carrying costs at the electrical corporation's
26 weighted average cost of capital shall be added to the regulatory asset
27 balance and the regulatory asset shall be recovered through rates set
28 under section 393.150 or through a rate adjustment mechanism under
29 section 393.1030, as soon as is practical.

30 3. An electrical corporation's decision to invest in utility-owned
31 solar facilities consistent with subsection 2 of this section shall be
32 deemed to be prudent. An electrical corporation shall not be required
33 to obtain the permission of the commission to construct the facilities
34 required by this section, notwithstanding the provisions of section
35 393.170. The commission shall retain the authority to review the
36 specific costs incurred to construct and own the facilities to ensure
37 that rates are based only on prudently incurred costs.

38 4. Nothing in this section shall preclude an electrical corporation
39 from recovering costs of investing in or purchasing electricity from
40 additional solar facilities beyond those provided for under subsection
41 2 of this section.

42 5. This section shall expire on December 31, 2023, provided that
43 after such expiration the electrical corporation shall be entitled to
44 recover any remaining regulatory asset balance as provided in
45 subsection 2 of this section.

393.1670. 1. Notwithstanding the provisions of subdivision (1) of
2 subsection 2 of section 393.1030 and section 393.1045 to the contrary,
3 and subject to the limitations provided for in this section, an electrical
4 corporation shall, commencing January 1, 2019, make solar rebates
5 available in the amounts specified in this section. For systems
6 becoming operational between January 1, 2019, and June 30, 2019, the
7 solar rebate shall be fifty cents per watt, and for systems that become
8 operational after June 30, 2019, through December 31, 2023, the solar
9 rebate shall be twenty-five cents per watt. The rebates provided for by
10 this section shall apply to new or expanded solar electric systems up to
11 a maximum of twenty-five kilowatts per system for residential
12 customers and up to one hundred fifty kilowatts per system for
13 nonresidential customers. Customers shall be eligible for rebates on
14 new or expanded systems for the increment of new or extended
15 capacity and not for capacity on which rebates offered under any other

16 provision of law have previously been paid, up to the system kilowatt
17 limits set forth in this section. However, an electrical corporation's
18 obligation to make solar rebate payments under this section shall not
19 exceed the following limitations:

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

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

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

38 2. At its election, the electrical corporation shall be permitted to
39 recover the cost of all solar rebate payments it has made through either
40 base rates or through a rate adjustment mechanism under section
41 393.1030, and shall, also at its election, be permitted to defer and
42 amortize the recovery of such costs, including interest at the electric
43 corporation's short-term borrowing rate, through either base rates or
44 a surcharge over a period of the electrical corporation's choice not to
45 exceed five years; provided that, if recovery of such costs in such
46 manner and over such a time period would cause the electrical
47 corporation to exceed the one percent maximum average retail rate
48 increase limitation required by subdivision (1) of subsection 2 of
49 section 393.1030, that part of recovery of such costs that would exceed
50 such one percent limitation shall be deferred by the electrical
51 corporation to a regulatory asset, to which carrying costs at the
52 electrical corporation's weighted average cost of capital shall be added

53 and recovered through base rates or through a rate adjustment
54 mechanism under section 393.1030, as soon as practicable.

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

61 4. Reductions in electrical corporation loads as a result of the
62 installation of solar systems not owned by the electrical corporation
63 that provide electricity to the electrical corporation's customers
64 constitute conservation.

65 5. The commission shall have the authority to promulgate rules
66 for the implementation of this section, but only to the extent that such
67 rules are consistent with, and do not delay the implementation of, the
68 provisions of this section. Any rule or portion of a rule, as that term is
69 defined in section 536.010 that is created under the authority delegated
70 in this section shall become effective only if it complies with and is
71 subject to all of the provisions of chapter 536, and, if applicable, section
72 536.028. This section and chapter 536 are nonseverable and if any of
73 the powers vested with the general assembly pursuant to chapter 536,
74 to review, to delay the effective date, or to disapprove and annul a rule
75 are subsequently held unconstitutional, then the grant of rulemaking
76 authority and any rule proposed or adopted after August 28, 2018, shall
77 be invalid and void.

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

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

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

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

✓

SECOND REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]
SENATE SUBSTITUTE NO. 5 FOR

SENATE BILL NO. 564

99TH GENERAL ASSEMBLY

2018

5027S.11T

AN ACT

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

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

Section A. Sections 386.266, 386.390, and 393.170, RSMo, are repealed
2 and twelve new sections enacted in lieu thereof, to be known as sections 386.266,
3 386.390, 393.137, 393.170, 393.1400, 393.1610, 393.1640, 393.1650, 393.1655,
4 393.1665, 393.1670, and 1, to read as follows:

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

10 2. Subject to the requirements of this section, any electrical, gas, or water
11 corporation may make an application to the commission to approve rate schedules
12 authorizing periodic rate adjustments outside of general rate proceedings to
13 reflect increases and decreases in its prudently incurred costs, whether capital
14 or expense, to comply with any federal, state, or local environmental law,
15 regulation, or rule. Any rate adjustment made under such rate schedules shall

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

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

28 3. Subject to the requirements of this section, any gas or electrical
29 corporation may make an application to the commission to approve rate schedules
30 authorizing periodic rate adjustments outside of general rate proceedings to
31 **[reflect the nongas revenue effects] adjust rates of customers in eligible**
32 **customer classes to account for the impact on utility revenues of**
33 **increases or decreases in residential and commercial customer usage due to**
34 **variations in either weather, conservation, or both. No electrical corporation**
35 **shall make an application to the commission under this subsection if**
36 **such corporation has provided notice to the commission under**
37 **subsection 5 of section 393.1400. For purposes of this section: for**
38 **electrical corporations, eligible customer classes means the residential**
39 **class and classes that are not demand metered; and for gas**
40 **corporations, eligible customer classes means the residential class and**
41 **the smallest general service class. As used in this subsection,**
42 **"revenues" means the revenues recovered through base rates, and does**
43 **not include revenues collected through a rate adjustment mechanism**
44 **authorized by this section or any other provisions of law. This**
45 **subsection shall apply to electrical corporations beginning January 1,**
46 **2019, and shall expire for electrical corporations on January 1, 2029.**

47 4. The commission shall have the power to approve, modify, or reject
48 adjustment mechanisms submitted under subsections 1 to 3 of this section only
49 after providing the opportunity for a full hearing in a general rate proceeding,
50 including a general rate proceeding initiated by complaint. The commission may
51 approve such rate schedules after considering all relevant factors which may

52 affect the costs or overall rates and charges of the corporation, provided that it
53 finds that the adjustment mechanism set forth in the schedules:

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

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

60 (3) In the case of an adjustment mechanism submitted under subsections
61 1 and 2 of this section, includes provisions requiring that the utility file a general
62 rate case with the effective date of new rates to be no later than four years after
63 the effective date of the commission order implementing the adjustment
64 mechanism. However, with respect to each mechanism, the four-year period shall
65 not include any periods in which the utility is prohibited from collecting any
66 charges under the adjustment mechanism, or any period for which charges
67 collected under the adjustment mechanism must be fully refunded. In the event
68 a court determines that the adjustment mechanism is unlawful and all moneys
69 collected thereunder are fully refunded, the utility shall be relieved of any
70 obligation under that adjustment mechanism to file a rate case;

71 (4) In the case of an adjustment mechanism submitted under subsection
72 1 or 2 of this section, includes provisions for prudence reviews of the costs subject
73 to the adjustment mechanism no less frequently than at eighteen-month
74 intervals, and shall require refund of any imprudently incurred costs plus
75 interest at the utility's short-term borrowing rate.

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

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

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

87 8. In the event the commission lawfully approves an incentive- or

88 performance-based plan, such plan shall be binding on the commission for the
89 entire term of the plan. This subsection shall not be construed to authorize or
90 prohibit any incentive- or performance-based plan.

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

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

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

106 12. The [provisions of this section shall take effect on January 1, 2006,
107 and the] commission shall have previously promulgated rules to implement the
108 application process for any rate adjustment mechanism under this section prior
109 to the commission issuing an order for any such rate adjustment.

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

114 14. Each public utility operating under a mechanism proposed
115 and approved under subsection 3 of this section shall quarterly file a
116 surveillance monitoring, consisting of five parts. Each part, except the
117 rate base quantifications report, shall contain information for the last
118 twelve month period and the last quarter data for total company
119 electric operations and Missouri jurisdictional operations. Rate base
120 quantifications shall contain only information for the ending date of
121 the period being reported.

122 (1) Part one of the surveillance monitoring report shall be the
123 rate base quantifications report. The quantification of rate base items

124 in part one shall be consistent with the methods or procedures used in
125 the most recent rate proceeding unless otherwise specified. The report
126 shall consist of specific rate base quantifications of:

- 127 (a) Plant in service;
- 128 (b) Reserve for depreciation;
- 129 (c) Materials and supplies;
- 130 (d) Cash working capital;
- 131 (e) Fuel inventory, if applicable;
- 132 (f) Prepayments;
- 133 (g) Other regulatory assets;
- 134 (h) Customer advances;
- 135 (i) Customer deposits;
- 136 (j) Accumulated deferred income taxes;
- 137 (k) Any other item included in the electrical corporation's rate
138 base in its most recent rate proceeding;
- 139 (l) Net operating income from part three; and
- 140 (m) Calculation of the overall return on rate base.

141 (2) Part two of the surveillance monitoring report shall be the
142 capitalization quantifications report, which shall consist of specific
143 capitalization quantifications of:

- 144 (a) Common stock equity (net);
- 145 (b) Preferred stock, par or stated value outstanding;
- 146 (c) Long-term debt, including current maturities;
- 147 (d) Short-term debt; and
- 148 (e) Weighted cost of capital, including component costs.

149 (3) Part three of the surveillance monitoring report shall be the
150 income statement, which shall consist of an income statement
151 containing specific quantification of:

- 152 (a) Operating revenues to include sales to industrial,
153 commercial, and residential customers, sales for resale, and other
154 components of total operating revenues;
- 155 (b) Operating and maintenance expenses for fuel expense,
156 production expenses, purchased power energy and capacity, if
157 applicable;
- 158 (c) Transmission expenses;
- 159 (d) Distribution expenses;
- 160 (e) Customer accounts expenses;

- 161 (f) Customer service and information expenses;
162 (g) Sales expenses;
163 (h) Administrative and general expenses;
164 (i) Depreciation, amortization, and decommissioning expense;
165 (j) Taxes other than income taxes;
166 (k) Income taxes; and
167 (l) Quantification of heating degree and cooling degree days,
168 actual and normal.
- 169 (4) Part four of the surveillance monitoring report shall be the
170 jurisdictional allocation factor report, which shall consist of a listing
171 of jurisdictional allocation factors for the rate base, capitalization
172 quantification reports, and income statement.
- 173 (5) Part five of the surveillance monitoring report shall be the
174 financial data notes, which shall consist of notes to financial data
175 including, but not limited to:
- 176 (a) Out of period adjustments;
177 (b) Specific quantification of material variances between actual
178 and budget financial performance;
179 (c) Material variances between current twelve month period and
180 prior twelve month period revenue;
181 (d) Expense level of items ordered by the commission to be
182 tracked under the order establishing the rate adjustment mechanism;
183 (e) Budgeted capital projects; and
184 (f) Events that materially affect debt or equity surveillance
185 components.
- 186 (6) This subsection shall expire on January 1, 2029.

386.390. 1. Complaint may be made by the commission of its own motion,
2 or by the public counsel or any corporation or person, chamber of commerce,
3 board of trade, or any civic, commercial, mercantile, traffic, agricultural or
4 manufacturing association or organization, or any body politic or municipal
5 corporation, by petition or complaint in writing, setting forth any act or thing
6 done or omitted to be done by any corporation, person or public utility[, including
7 any rule, regulation or charge heretofore established or fixed by or for any
8 corporation, person or public utility,] in violation, or claimed to be in violation,
9 of any provision of law subject to the commission's authority, [or] of any
10 rule promulgated by the commission, of any utility tariff, or of any order
11 or decision of the commission; provided, that no complaint shall be entertained

12 by the commission, except upon its own motion, as to the reasonableness of any
13 rates or charges of any gas, electrical, water, sewer, or telephone corporation,
14 unless the same be signed by the public counsel or the mayor or the president or
15 chairman of the board of aldermen or a majority of the council, commission or
16 other legislative body of any city, town, village or county, within which the
17 alleged violation occurred, or not less than twenty-five consumers or purchasers,
18 or prospective consumers or purchasers, of such gas, electricity, water, sewer or
19 telephone service.

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

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

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

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

**393.137. 1. This section applies to electrical corporations that do
2 not have a general rate proceeding pending before the commission as
3 of the later of February 1, 2018, or the 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
7 386.020, but shall not include an electrical corporation as described in
8 subsection 2 of section 393.110.**

**9 3. If the rates of any electrical corporation to which this section
10 applies have not already been adjusted to reflect the effects of the**

11 federal 2017 Tax Cut and Jobs Act, Pub. L. No. 115-97, 94 Stat. 2390, the
12 commission shall have one time authority that shall be exercised within
13 ninety days of the effective date of this section to adjust such electrical
14 corporation's rates prospectively so that the income tax component of
15 the revenue requirement used to set such an electrical corporation's
16 rates is based upon the provisions of such federal act without
17 considering any other factor as otherwise required by section
18 393.270. The commission shall also require electrical corporations to
19 which this section applies, as provided for under subsection 1 of this
20 section, to defer to a regulatory asset the financial impact of such
21 federal act on the electrical corporation for the period of January 1,
22 2018, through the date the electrical corporation's rates are adjusted on
23 a one-time basis as provided for in the immediately preceding
24 sentence. The amounts deferred under this subsection shall be
25 included in the revenue requirement used to set the electrical
26 corporation's rates in its subsequent general rate proceeding through
27 an amortization over a period determined by the commission.

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

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

6 2. No such corporation shall exercise any right or privilege under any
7 franchise hereafter granted, or under any franchise heretofore granted but not
8 heretofore actually exercised, or the exercise of which shall have been suspended
9 for more than one year, without first having obtained the permission and
10 approval of the commission. Before such certificate shall be issued a certified

11 copy of the charter of such corporation shall be filed in the office of the
12 commission, together with a verified statement of the president and secretary of
13 the corporation, showing that it has received the required consent of the proper
14 municipal authorities.

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

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

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

4 (2) "Electrical corporation", the same as defined in section
5 386.020, but shall not include an electrical corporation as described in
6 subsection 2 of section 393.110;

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

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

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

26 December 31, 2017, and a cost of common equity of nine and one-half
27 percent.

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

47 (2) The regulatory asset balances arising under this section shall
48 be adjusted to reflect any prudence disallowances ordered by the
49 commission. The provisions of this section shall not be construed to
50 affect existing law respecting the burdens of production and persuasion
51 in general rate proceedings for rate base additions.

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

60 3. (1) Depreciation expense deferred under this section shall
61 account for all qualifying electric plant placed into service less
62 retirements of plant replaced by such qualifying electric plant.

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

70 4. Beginning February 28, 2019, and by each February twenty-
71 eighth thereafter while the electrical corporation is allowed to make
72 the deferrals provided for by subsection 2 of this section, electrical
73 corporations that defer depreciation expense and return authorized
74 under this section shall submit to the commission a five-year capital
75 investment plan setting forth the general categories of capital
76 expenditures the electrical corporation will pursue in furtherance of
77 replacing, modernizing, and securing its infrastructure. The plan shall
78 also include a specific capital investment plan for the first year of the
79 five-year plan consistent with the level of specificity used for annual
80 capital budgeting purposes. For each of the first five years that an
81 electrical corporation is allowed to make the deferrals provided for by
82 subsection 2 of this section, the purchase and installation of smart
83 meters shall constitute no more than six percent of the electrical
84 corporation's total capital expenditures during any given year under
85 the corporation's specific capital investment plan. At least twenty-five
86 percent of the cost of each year's capital investment plan shall be
87 comprised of grid modernization projects, including but not limited to:

88 (1) Increased use of digital information and controls technology
89 to improve reliability, security, and efficiency of the electric grid;

90 (2) Dynamic optimization of grid operations and resources, with
91 full cyber-security;

92 (3) Deployment and integration of distributed resources and
93 generation, including renewable resources;

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

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

100 (6) Integration of "smart" appliances and devices;
101 (7) Deployment and integration of advanced electricity storage
102 and peak-shaving technologies, including plug-in electric and hybrid
103 electric vehicles, and thermal storage air conditioning;
104 (8) Provision of timely information and control options to
105 consumer;
106 (9) Development of standards for communication and
107 interoperability of appliances and equipment connected to the electric
108 grid, including the infrastructure serving the grid; and
109 (10) Identification and lowering of unreasonable or unnecessary
110 barriers to adoption of smart grid technologies, practices, and services.
111 Project specific information need not be included for the five-year
112 period covered by the plan. Within thirty days of the filing of any
113 capital investment plan or annual update to an existing plan, the
114 electrical corporation shall host a public stakeholder meeting to
115 answer questions and receive feedback about the plan. After feedback
116 is received, the electrical corporation shall file a notice with the
117 commission of any modifications to the capital investment plan it has
118 accepted. Changes to the plan, its implementation, or the level of
119 investments made shall not constitute evidence of imprudence of the
120 investments made under such plan. The submission of a capital
121 investment plan under this section shall not affect in any way the
122 commission's authority with respect to the grant or denial of a
123 certificate of convenience and necessity under section 393.170. By
124 February twenty-eighth following each year in which the electrical
125 corporation submits a capital investment plan, the electrical
126 corporation shall submit a report to the commission detailing actual
127 capital investments made the previous year.

128 5. This section shall only apply to any electrical corporation that
129 has filed a notice with the commission of the electrical corporation's
130 election to make the deferrals for which this section provides. No
131 electrical corporation shall file a notice with the commission under this
132 subsection if such corporation has made an application under
133 subsection 3 of section 386.266, and such application has been
134 approved. An electrical corporation's election shall allow it to make
135 the deferrals provided for by subsection 2 of this section until
136 December 31, 2023, unless the electrical corporation requests and the

137 commission approves the continuation of such deferrals beyond that
138 date and approves continuation of the discounts authorized by section
139 393.1640 beyond that date as hereinafter provided. An electrical
140 corporation that wishes to continue to make the deferrals provided for
141 by subsection 2 of this section from January 1, 2024, through December
142 31, 2028, shall obtain the commission's approval to do so, shall be
143 subject to the compound annual growth rate limitations set forth under
144 section 393.1655, and shall also obtain the commission's approval to
145 continue to provide the discounts authorized by section 393.1640 in a
146 commission order issued on or before December 31, 2023. The
147 commission shall have the authority to grant or deny such approval
148 based upon the commission's evaluation of the costs and benefits of
149 such continuation to electrical corporations and consumers, but shall
150 not be authorized to condition such approval or otherwise modify the
151 deferrals authorized by subsection 2 of this section, or the discounts
152 authorized by section 393.1640. In deciding whether to extend the
153 program for an additional five years, the commission shall develop an
154 objective analytical framework to determine whether there is a
155 continuing need. The commission shall make a finding about whether
156 there is a continuing need after hearing. Failure to obtain such
157 commission approval shall not affect deferrals made through December
158 31, 2023, or the regulatory and ratemaking treatment of the regulatory
159 assets arising from such deferrals as provided for by this section.

160 6. This section shall expire on December 31, 2028, except that the
161 amortization of the regulatory asset balances arising under this section
162 shall continue to be reflected in the electrical corporation's rates and
163 remaining regulatory asset balances shall be included in the electrical
164 corporation's rate base consistent with the ratemaking treatment and
165 amortization previously approved by the commission pursuant to this
166 section.

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

8 across the grid or network.

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

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

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

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

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

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

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

55 2. In each general rate proceeding concluded after the effective
56 date of this section, the reduced level of revenues arising from the
57 application of discounted rates provided for by subsection 1 of this
58 section shall be allocated to all the electrical corporation's customer
59 classes, including the classes with customers that qualify for discounts
60 under this section. This increase shall be implemented through the
61 application of a uniform percentage adjustment to the revenue
62 requirement responsibility of all customer classes. To qualify for the
63 discounted rates provided for in this section, if incremental load is
64 separately metered, customers shall meet the applicable criteria within
65 twenty-four months after the date the meter is permanently set based
66 on metering data for calendar months thirteen through twenty-four and
67 annually thereafter. If such data indicates that the customer did not
68 meet the criteria for any applicable twelve-month period, it shall
69 thereafter no longer qualify for the discounted rate. The provisions of

70 this section do not supersede or limit the ability of an electrical
71 corporation to continue to utilize economic development or retention
72 tariffs previously approved by the commission that are in effect on the
73 effective date of this section. If, however, a customer is receiving any
74 economic development or retention-related discounts as of the date it
75 would otherwise qualify for a discount provided for by this section, the
76 customer shall agree to relinquish the prior discount concurrently with
77 the date it begins to receive a discount under this section; otherwise,
78 the customer shall not be eligible to receive any discount under this
79 section. Customer demand existing at the time the customer begins to
80 receive discounted rates under this section shall not constitute
81 incremental demand. The discounted rates provided for by this section
82 apply only to base rate components, with the charges or credits arising
83 from any rate adjustment mechanism authorized by law to be applied
84 to customers qualifying for discounted rates under this section in the
85 same manner as such rate adjustments would apply in the absence of
86 this section.

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

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

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

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

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

9 2. Electrical corporations shall develop a qualification process
10 and make such process open to all contractors seeking to provide
11 construction and construction-related services for projects on the
12 electrical corporation's distribution system. Contractors shall have the

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

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

49 4. Nothing in this section shall be construed as requiring any

50 electrical corporation to use a qualified contractor or competitive
51 bidding process in the case of an emergency project, or to terminate
52 any existing contract with a contractor prior to its expiration, provided
53 that the use of any pre-existing contract for construction or
54 construction-related services for distribution system projects shall not
55 qualify as fulfilling the ten percent requirement set forth in subsection
56 3 of this section. For contractors not qualifying through the
57 competitive bid process, the electrical corporation, upon request from
58 the contractor, shall provide information from the process in which the
59 contractor can be informed as to how to be better positioned to qualify
60 for such bid opportunities in the future.

61 5. By December 31, 2020, and annually thereafter, the commission
62 shall submit a report to the general assembly on the effects of this
63 section, including electrical corporation compliance, potential
64 legislative action regarding this section, the costs of constructing
65 distribution system projects prior to the implementation of this section
66 compared to after the implementation of this section, and any other
67 information regarding the processes established under this section that
68 the commission deems necessary.

393.1655. 1. This section applies to an electrical corporation that
2 has elected to exercise any option under section 393.1400 and that has
3 more than two hundred thousand Missouri retail customers in the year
4 in which this section becomes effective, and shall continue to apply to
5 such electrical corporation until December 31, 2023, if the commission
6 has not issued an order approving continuation of the deferrals
7 authorized by subsection 2 of section 393.1400, and continuation of the
8 discounts authorized by section 393.1640 as authorized by subsection
9 5 of section 393.1400 with respect to the electrical corporation, or until
10 December 31, 2028, if the commission has issued such an order with
11 respect to the electrical corporation.

12 2. Notwithstanding any other provision of law and except as
13 otherwise provided for by this section, an electrical corporation's base
14 rates shall be held constant for a period starting on the date new base
15 rates were established in the electrical corporation's last general rate
16 proceeding concluded prior to the date the electrical corporation gave
17 notice under subsection 5 of section 393.1400 and ending on the third
18 anniversary of that date, unless a force majeure event as determined

19 by the commission occurs. Whether a force majeure event has occurred
20 shall be subject to commission review and approval in a general rate
21 proceeding, and shall not preclude the commission from reviewing the
22 prudence of any revenue reductions or costs incurred during any
23 proceeding to set rates. This subsection shall not affect the electrical
24 corporation's ability to adjust its nonbase rates during the three-year
25 period provided for in this subsection as authorized by its commission-
26 approved rate adjustment mechanisms arising under sections 386.266,
27 393.1030, or 393.1075, or as authorized by any other rate adjustment
28 mechanism authorized by law.

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

41 4. This section shall apply to electrical corporations that do not
42 have a general rate proceeding pending before the commission as of the
43 later of February 1, 2018, or the effective date of this section. If the
44 difference between (a) the electrical corporation's average overall rate
45 at any point in time while this section applies to the electrical
46 corporation, and (b) the average of (i) the electrical corporation's
47 average overall rate as of the date new base rates are set in the
48 electrical corporation's most recent general rate proceeding concluded
49 prior to the date the electrical corporation gave notice under section
50 393.1400, and (ii) the electrical corporation's average overall rate set
51 under section 393.137, reflects a compound annual growth rate of more
52 than two and eighty-five hundredths percent, the electrical corporation
53 shall not recover any amount in excess of such two and eighty-five
54 hundredths percent as a performance penalty.

55 5. If a change in any rates charged under a rate adjustment

56 mechanism approved by the commission under sections 386.266 and
57 393.1030 would cause an electrical corporation's average overall rate
58 to exceed the compound annual growth rate limitation set forth in
59 subsection 3 or 4 of this section, the electrical corporation shall reduce
60 the rates charged under that rate adjustment mechanism in an amount
61 sufficient to ensure that the compound annual growth rate limitation
62 set forth in subsection 3 or 4 of this section is not exceeded due to the
63 application of the rate charged under such mechanism and the
64 performance penalties under such subsections are not triggered. Sums
65 not recovered under any such mechanism because of any reduction in
66 rates under such a mechanism pursuant to this subsection shall be
67 deferred to and included in the regulatory asset arising under section
68 393.1400 or, if applicable, under the regulatory and ratemaking
69 treatment ordered by the commission under section 393.1400, and
70 recovered through an amortization in base rates in the same manner
71 as deferrals under that section or order are recovered in base rates.

72 6. If the difference between (a) the electrical corporation's class
73 average overall rate at any point in time while this section applies to
74 the electrical corporation, and (b) the electrical corporation's class
75 average overall rate as of the date rates are set in the electrical
76 corporation's most recent general rate proceeding concluded prior to
77 the date the electrical corporation gave notice under subsection 5 of
78 section 393.1400, reflects a compound annual growth rate of more than
79 two percent for the large power service rate class, the class average
80 overall rate shall increase by an amount so that the increase shall
81 equal a compound annual growth rate of two percent over such period
82 for such large power service rate class, with the reduced revenues
83 arising from limiting the large power service class average overall rate
84 increase to two percent to be allocated to all the electrical
85 corporation's other customer classes through the application of a
86 uniform percentage adjustment to the revenue requirement
87 responsibility of all the other customer classes.

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

89 (1) "Average base rate", a rate calculated by dividing the total
90 retail revenue requirement for all the electrical corporation's rate
91 classes by the total sales volumes stated in kilowatt-hours for all such
92 rate classes used to set rates in the applicable general rate proceeding,

93 exclusive of gross receipts tax, sales tax, and other similar pass-through
94 taxes;

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

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

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

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

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

122 (7) "Force majeure event", an event or circumstance that occurs
123 as a result of a weather event, an act of God, war, terrorism, or other
124 event which threatens the financial integrity of the electrical
125 corporation that causes a reduction in revenues, an increase in the cost
126 of providing electrical service, or some combination thereof, and the
127 event has an associated fiscal impact on the electrical corporation's
128 operations equal to three percent or greater of the total revenue
129 requirement established in the electrical corporation's last general rate

130 proceeding after taking into account the financial impact specified in
131 section 393.137. Any force majeure event shall be subject to commission
132 review and approval, and shall not preclude the commission from
133 reviewing the prudence of any revenue reductions or costs incurred
134 during any proceeding to set rates;

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

393.1665. 1. For purposes of this section, "electrical corporation"
2 shall mean the same as defined in section 386.020, but shall not include
3 an electrical corporation as described in subsection 2 of section
4 393.110.

5 2. An electrical corporation with one million or more Missouri
6 electric customers shall invest in the aggregate no less than fourteen
7 million dollars in utility-owned solar facilities located in Missouri or in
8 an adjacent state during the period between the effective date of this
9 section and December 31, 2023. An electrical corporation with less than
10 one million but more than two-hundred thousand Missouri electric
11 customers shall invest in the aggregate no less than four million dollars
12 in utility-owned solar facilities located in Missouri or in an adjacent
13 state during the period between the effective date of this section and
14 December 31, 2023. An electrical corporation with two hundred
15 thousand or fewer Missouri electric customers shall invest in the
16 aggregate no less than three million five hundred thousand dollars in
17 utility-owned solar facilities located in Missouri or in an adjacent state
18 during the period between the effective date of this section and
19 December 31, 2023. If the rate impact of the electrical corporation's
20 investment in such facilities would cause the electrical corporation to
21 exceed the one percent maximum average retail rate increase
22 limitation required by subdivision (1) of subsection 2 of section
23 393.1030, that part of such costs that would cause such one percent
24 limitation to be exceeded shall be deferred by the electrical corporation
25 to a regulatory asset. Carrying costs at the electrical corporation's
26 weighted average cost of capital shall be added to the regulatory asset
27 balance and the regulatory asset shall be recovered through rates set

28 under section 393.150 or through a rate adjustment mechanism under
29 section 393.1030, as soon as is practical.

30 3. An electrical corporation's decision to invest in utility-owned
31 solar facilities consistent with subsection 2 of this section shall be
32 deemed to be prudent. An electrical corporation shall not be required
33 to obtain the permission of the commission to construct the facilities
34 required by this section, notwithstanding the provisions of section
35 393.170. The commission shall retain the authority to review the
36 specific costs incurred to construct and own the facilities to ensure
37 that rates are based only on prudently incurred costs.

38 4. Nothing in this section shall preclude an electrical corporation
39 from recovering costs of investing in or purchasing electricity from
40 additional solar facilities beyond those provided for under subsection
41 2 of this section.

42 5. This section shall expire on December 31, 2023, provided that
43 after such expiration the electrical corporation shall be entitled to
44 recover any remaining regulatory asset balance as provided in
45 subsection 2 of this section.

393.1670. 1. Notwithstanding the provisions of subdivision (1) of
2 subsection 2 of section 393.1030 and section 393.1045 to the contrary,
3 and subject to the limitations provided for in this section, an electrical
4 corporation shall, commencing January 1, 2019, make solar rebates
5 available in the amounts specified in this section. For systems
6 becoming operational between January 1, 2019, and June 30, 2019, the
7 solar rebate shall be fifty cents per watt, and for systems that become
8 operational after June 30, 2019, through December 31, 2023, the solar
9 rebate shall be twenty-five cents per watt. The rebates provided for by
10 this section shall apply to new or expanded solar electric systems up to
11 a maximum of twenty-five kilowatts per system for residential
12 customers and up to one hundred fifty kilowatts per system for
13 nonresidential customers. Customers shall be eligible for rebates on
14 new or expanded systems for the increment of new or extended
15 capacity and not for capacity on which rebates offered under any other
16 provision of law have previously been paid, up to the system kilowatt
17 limits set forth in this section. However, an electrical corporation's
18 obligation to make solar rebate payments under this section shall not
19 exceed the following limitations:

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

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

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

38 2. At its election, the electrical corporation shall be permitted to
39 recover the cost of all solar rebate payments it has made through either
40 base rates or through a rate adjustment mechanism under section
41 393.1030, and shall, also at its election, be permitted to defer and
42 amortize the recovery of such costs, including interest at the electric
43 corporation's short-term borrowing rate, through either base rates or
44 a surcharge over a period of the electrical corporation's choice not to
45 exceed five years; provided that, if recovery of such costs in such
46 manner and over such a time period would cause the electrical
47 corporation to exceed the one percent maximum average retail rate
48 increase limitation required by subdivision (1) of subsection 2 of
49 section 393.1030, that part of recovery of such costs that would exceed
50 such one percent limitation shall be deferred by the electrical
51 corporation to a regulatory asset, to which carrying costs at the
52 electrical corporation's weighted average cost of capital shall be added
53 and recovered through base rates or through a rate adjustment
54 mechanism under section 393.1030, as soon as practicable.

55 3. Solar rebates in the amounts specified for each calendar year
56 and in the aggregate for calendar years 2019 through 2023 referred to

57 in this section shall become available effective January 1, 2019. The
58 solar rebate provision of subsection 3 of section 393.1030, including any
59 commission orders relating to such provisions applicable to an
60 electrical corporation, are unaffected by this section.

61 4. Reductions in electrical corporation loads as a result of the
62 installation of solar systems not owned by the electrical corporation
63 that provide electricity to the electrical corporation's customers
64 constitute conservation.

65 5. The commission shall have the authority to promulgate rules
66 for the implementation of this section, but only to the extent that such
67 rules are consistent with, and do not delay the implementation of, the
68 provisions of this section. Any rule or portion of a rule, as that term is
69 defined in section 536.010 that is created under the authority delegated
70 in this section shall become effective only if it complies with and is
71 subject to all of the provisions of chapter 536, and, if applicable, section
72 536.028. This section and chapter 536 are nonseverable and if any of
73 the powers vested with the general assembly pursuant to chapter 536,
74 to review, to delay the effective date, or to disapprove and annul a rule
75 are subsequently held unconstitutional, then the grant of rulemaking
76 authority and any rule proposed or adopted after August 28, 2018, shall
77 be invalid and void.

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

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

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

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

5 emergency act within the meaning of the constitution, and the enactment of
6 section 393.137 of this act shall be in full force and effect upon its passage and
7 approval.

✓

President of the Senate

Speaker of the House of Representatives

Governor