

SECOND REGULAR SESSION

HOUSE BILL NO. 1575

99TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE BERRY.

5137H.011

D. ADAM CRUMBLISS, Chief Clerk

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Section A. Sections 386.266 and 386.390, RSMo, are repealed and seven new sections enacted in lieu thereof, to be known as sections 386.266, 386.390, 393.1275, 393.1400, 393.1640, 393.1650, and 393.1655, to read as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 corporation may make an application to the commission to approve rate schedules authorizing an interim energy charge, or periodic rate adjustments outside of general rate proceedings to reflect increases and decreases in its prudently incurred fuel and purchased-power costs, including transportation, **and all transmission charges and revenues paid to or received from any transmission service provider.** The commission may, in accordance with existing law, include in such rate schedules features designed to provide the electrical corporation with incentives to improve the efficiency and cost-effectiveness of its fuel and purchased-power procurement activities. **Notwithstanding any other provision of this section, an electrical corporation may file to amend any such rate schedule that had been approved by the commission prior to August 28, 2018, to include its transmission charges and revenues paid to or received from any transmission service provider, without the necessity of filing a general rate proceeding, to the extent the amount of such charges and revenues is not already reflected in base rates.**

2. Subject to the requirements of this section, any electrical, gas, or water corporation may make an application to the commission to approve rate schedules authorizing periodic rate adjustments outside of general rate proceedings to reflect increases and decreases in its prudently

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

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

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

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

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

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

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

53 adjustment mechanism is unlawful and all moneys collected thereunder are fully refunded, the
54 utility shall be relieved of any obligation under that adjustment mechanism to file a rate case;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10 2. On and after the date an electrical corporation files a notice under subsection 4
11 of this section, the electrical corporation shall defer to a regulatory asset or liability
12 account any difference in the prudently incurred uncapitalized state and local property
13 taxes actually incurred, and those used to determine the electrical corporation's revenue
14 requirement in its most recently completed general rate proceeding. Such taxes used to
15 determine the electrical corporation's revenue requirement in its last general rate
16 proceeding shall be the amount of such taxes recorded on the electrical corporation's books
17 for the twelve months ending on the rate base cutoff date in the electrical corporation's
18 most recently completed general rate proceeding unless a different amount was used to set
19 such revenue requirement as determined by the commission in its order resolving such
20 proceeding or through a commission order approving a settlement respecting such taxes.
21 The regulatory asset or liability account balances shall be included in the retail revenue
22 requirement used to set rates through an amortization over a reasonable period in such
23 corporation's subsequent general rate proceedings, without any offset, reduction, or
24 adjustment based on consideration of any other factor. The commission shall also adjust
25 the rate base used to establish the retail revenue requirement of such corporation to reflect
26 the unamortized regulatory asset or liability account balances in such general rate
27 proceedings.

28 3. On and after the effective date of rates in an electrical corporation's next general
29 rate proceeding concluding after the effective date of this section, an electrical corporation
30 that has filed a notice under subsection 4 of this section shall defer to a regulatory asset or
31 liability account any difference in the prudently incurred operations and maintenance
32 expense actually incurred to protect the reliability and security of systems, software,
33 equipment, and facilities connected to or controlling the electric system against physical
34 or cyber-security threats including, but not limited to, generating stations, substations, and
35 control centers, and the operations and maintenance expense for such protection used to
36 determine the electrical corporation's revenue requirement in its most recently completed
37 general rate proceeding. The regulatory asset or liability account balances shall be
38 included in the retail revenue requirement used to set rates through an amortization over

39 a reasonable period in such corporation's subsequent general rate proceedings, without
40 any offset, reduction, or adjustment based on consideration of any other factor. The
41 commission shall also adjust the rate base used to establish the retail revenue requirement
42 of such corporation to reflect the unamortized regulatory asset or liability account balances
43 in such general rate proceedings.

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

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

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

21 2. (1) Notwithstanding any other provision of chapter 393 to the contrary,
22 electrical corporations shall defer to a regulatory asset all depreciation expense and return
23 associated with all qualifying electric plant recorded to plant-in-service on the utility's
24 books on or after the effective date of this section. In each general rate proceeding
25 concluded after the effective date of this section, the balance of the regulatory asset as of
26 the rate base cutoff date shall be included in the electrical corporation's rate base without
27 any offset, reduction, or adjustment based upon consideration of any other factor, other
28 than as provided for in subdivision (2) of this subsection, with the regulatory asset balance

29 arising from deferrals associated with the qualifying electric plant placed in service after
30 the rate base cutoff date to be included in rate base in the next general rate proceeding.
31 The expiration of this section shall not affect the continued inclusion in rate base and
32 amortization of regulatory asset balances that arose under this section prior to such
33 expiration.

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

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

44 3. (1) Depreciation expense deferred under this section shall account for all
45 qualifying electric plants placed into service less retirements of plants replaced by such
46 qualifying electric plants.

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

53 4. Beginning February 28, 2019, and by each February twenty-eighth thereafter,
54 electrical corporations that defer depreciation expense and return authorized under this
55 section shall submit to the commission a five-year capital investment plan setting forth the
56 general categories of capital expenditures the electrical corporation will pursue in
57 furtherance of replacing, modernizing, and securing its infrastructure. The plan shall also
58 include a specific capital investment plan for the first year of the five-year plan consistent
59 with the level of specificity used for annual capital budgeting purposes. Project- specific
60 information shall not be included for the five-year period covered by the plan. Within
61 thirty days of the filing of any capital investment plan or annual update to an existing plan,
62 the electrical corporation shall host a public stakeholder meeting to answer questions and
63 receive feedback about the plan. After feedback is received, the electrical corporation shall
64 file a notice with the commission of any modifications to the capital investment plan it has

65 accepted. Changes to the plan, its implementation, or the level of investments made shall
66 not constitute evidence of imprudence of the investments made under such plan. The
67 submission of a capital investment plan under this section shall not affect in any way the
68 commission's authority with respect to the grant or denial of a certificate of convenience
69 and necessity under section 393.170.

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

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

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

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

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

13

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

25 under this subsection after the date this section expires. The electrical corporation may
26 include in its tariff additional or alternative terms and conditions to a customer's
27 utilization of the discount, subject to approval of such terms and conditions by the
28 commission. The customer, on forms supplied by the electrical corporation, shall apply for
29 the discount provided for by this subsection at least ninety days prior to the date the
30 customer requests that the incremental demand receive the discounts provided for by this
31 subsection. If the incremental demand is not separately metered, the electrical
32 corporation's determination of the incremental demand shall control.

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

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

61 **4. This section shall expire on December 31, 2028, except to the extent expressly**
62 **provided.**

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

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

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

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

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

35 electrical corporation's operating units in Missouri for construction and construction-
36 related services for distribution system projects, and that such process conforms with the
37 requirements set forth in this section to ensure compliance with this subsection.

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

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

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

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

18 electrical corporation gave a notice under either subsection 4 of section 393.1275 or
19 subsection 5 of section 393.1400. Any force majeure event shall be subject to commission
20 review and approval, and shall not preclude the commission from reviewing the prudence
21 of any revenue reductions or costs incurred during any proceeding to set rates.

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

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

39 **5. If the difference between (a) the electrical corporation's average base rate for all**
40 **its customers, as set in any general rate proceeding concluding prior to the fifth**
41 **anniversary of the date referenced in subsection 2 of this section, and (b) the electrical**
42 **corporation's average base rate for all its customers, as set in the electrical corporation's**
43 **most recent general rate proceeding concluded prior to the date the electrical corporation**
44 **gave notice under either subsection 4 of section 393.1275 or subsection 5 of section**
45 **393.1400, reflects a compound annual growth rate of more than three and three-quarters**
46 **percent, the electrical corporation shall, in addition to establishing the regulatory liability**
47 **as specified in subsections 3 and 4 of this section, starting with the effective date of its**
48 **revised base rates that exceed the three and three-quarters percent threshold provided for**
49 **in this subsection, cease further deferrals under sections 393.1275 and 393.1400, with prior**
50 **deferrals to be treated as provided in such sections.**

51 **6. If the difference between (a) the electrical corporation's class average base rate**
52 **for its large power service rate class as set in any general rate proceeding concluding prior**
53 **to the fifth anniversary of the date referenced in subsection 2 of this section, and (b) the**

54 electrical corporation's class average base rate for its large power service rate class, as set
55 in the electrical corporation's most recent general rate proceeding concluded prior to the
56 date the electrical corporation gave notice under either subsection 4 of section 393.1275 or
57 subsection 5 of section 393.1400, reflects a compound annual growth rate of more than two
58 percent, the class average base rate for the electrical corporation's large power service class
59 shall increase by an amount so that the increase shall equal a compound annual growth
60 rate of two percent over such period, with the reduced revenues arising from limiting the
61 large power service class average base rate increase to two percent to be allocated to all the
62 electrical corporation's other customer classes through the application of a uniform
63 percentage adjustment to the revenue requirement responsibility of all the other customer
64 classes.

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

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

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

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

✓