

SECOND REGULAR SESSION

SENATE BILL NO. 1044

100TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR CRAWFORD.

Read 1st time February 25, 2020, and ordered printed.

ADRIANE D. CROUSE, Secretary.

5542S.011

AN ACT

To repeal section 393.1075, RSMo, and to enact in lieu thereof one new section relating to demand-side programs for gas corporations.

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

Section A. Section 393.1075, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 393.1075, to read as follows:

393.1075. 1. This section shall be known as the "Missouri Energy Efficiency Investment Act".

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

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

(2) "Demand response", measures that decrease peak demand or shift demand to off-peak periods;

(3) "Demand-side program", any program conducted by the utility to modify the net consumption of electricity **or gas** on the retail customer's side of the electric meter **or other utility meter**, including but not limited to energy efficiency measures, rate management, demand response, and interruptible or curtailable load;

(4) "Energy efficiency", measures that reduce the amount of electricity **or gas** required to achieve a given end use;

(5) "Interruptible or curtailable rate", a rate under which a customer receives a reduced charge in exchange for agreeing to allow the utility to withdraw the supply of electricity **or gas** under certain specified conditions;

(6) "Total resource cost test", a test that compares the sum of avoided utility costs and avoided probable environmental compliance costs to the sum of all incremental costs of end-use measures that are implemented due to the

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

20 program, as defined by the commission in rules.

21 3. It shall be the policy of the state to value demand-side investments
22 equal to traditional investments in supply and delivery infrastructure and allow
23 recovery of all reasonable and prudent costs of delivering cost-effective
24 demand-side programs. In support of this policy, the commission shall:

25 (1) Provide timely cost recovery for utilities;

26 (2) Ensure that utility financial incentives are aligned with helping
27 customers use energy more efficiently and in a manner that sustains or enhances
28 utility customers' incentives to use energy more efficiently; and

29 (3) Provide timely earnings opportunities associated with cost-effective
30 measurable and verifiable efficiency savings.

31 4. The commission shall permit [electric] **electrical or gas** corporations
32 to implement commission-approved demand-side programs proposed pursuant to this
33 section with a goal of achieving all cost-effective demand-side savings. Recovery for
34 such programs shall not be permitted unless the programs are approved by the
35 commission, result in energy or demand savings and are beneficial to all
36 customers in the customer class in which the programs are proposed, regardless
37 of whether the programs are utilized by all customers. The commission shall
38 consider the total resource cost test a preferred cost-effectiveness test. Programs
39 targeted to low-income customers or general education campaigns do not need to
40 meet a cost-effectiveness test, so long as the commission determines that the
41 program or campaign is in the public interest. Nothing herein shall preclude the
42 approval of demand-side programs that do not meet the test if the costs of the
43 program above the level determined to be cost-effective are funded by the
44 customers participating in the program or through tax or other governmental
45 credits or incentives specifically designed for that purpose.

46 5. To comply with this section the commission may develop cost recovery
47 mechanisms to further encourage investments in demand-side programs
48 including, in combination and without limitation: capitalization of investments
49 in and expenditures for demand-side programs, rate design modifications,
50 accelerated depreciation on demand-side investments, and allowing the utility to
51 retain a portion of the net benefits of a demand-side program for its shareholders.
52 In setting rates the commission shall fairly apportion the costs and benefits of
53 demand-side programs to each customer class except as provided for in subsection
54 6 of this section. Prior to approving a rate design modification associated with
55 demand-side cost recovery, the commission shall conclude a docket studying the

56 effects thereof and promulgate an appropriate rule.

57 6. The commission may reduce or exempt allocation of demand-side
58 expenditures to low-income classes, as defined in an appropriate rate proceeding,
59 as a subclass of residential service.

60 7. Provided that the customer has notified the [electric] **electrical or**
61 **gas** corporation that the customer elects not to participate in demand-side
62 measures offered by an electrical **or gas** corporation, none of the costs of
63 demand-side measures of an [electric] **electrical or gas** corporation offered
64 under this section or by any other authority, and no other charges implemented
65 in accordance with this section, shall be assigned to any account of any customer,
66 including its affiliates and subsidiaries, meeting one or more of the following
67 criteria:

68 (1) The customer has one or more accounts within the service territory of
69 the electrical corporation that has a demand of five thousand kilowatts or more;

70 (2) The customer operates an interstate pipeline pumping station,
71 regardless of size; or

72 (3) The customer has accounts within the service territory of the electrical
73 corporation that have, in aggregate, a demand of two thousand five hundred
74 kilowatts or more, and the customer has a comprehensive demand-side or energy
75 efficiency program and can demonstrate an achievement of savings at least equal
76 to those expected from utility-provided programs.

77 8. Customers that have notified the electrical **or gas** corporation that
78 they do not wish to participate in demand-side programs under this section shall
79 not subsequently be eligible to participate in demand-side programs except under
80 guidelines established by the commission in rulemaking.

81 9. Customers who participate in demand-side programs initiated after
82 August 1, 2009, shall be required to participate in program funding for a period
83 of time to be established by the commission in rulemaking.

84 10. Customers electing not to participate in an [electric] **electrical or**
85 **gas** corporation's demand-side programs under this section shall still be allowed
86 to participate in interruptible or curtailable rate schedules or tariffs offered by
87 the [electric] **electrical or gas** corporation.

88 11. The commission shall provide oversight and may adopt rules and
89 procedures and approve corporation-specific settlements and tariff provisions,
90 independent evaluation of demand-side programs, as necessary, to ensure that
91 [electric] **electrical or gas** corporations can achieve the goals of this

92 section. Any rule or portion of a rule, as that term is defined in section 536.010,
93 that is created under the authority delegated in this section shall become effective
94 only if it complies with and is subject to all of the provisions of chapter 536 and,
95 if applicable, section 536.028. This section and chapter 536 are nonseverable and
96 if any of the powers vested with the general assembly pursuant to chapter 536 to
97 review, to delay the effective date, or to disapprove and annul a rule are
98 subsequently held unconstitutional, then the grant of rulemaking authority and
99 any rule proposed or adopted after August 28, 2009, shall be invalid and void.

100 12. Each [electric] **electrical or gas** corporation shall submit an annual
101 report to the commission describing the demand-side programs implemented by
102 the utility in the previous year. The report shall document program
103 expenditures, including incentive payments, peak demand and energy savings
104 impacts and the techniques used to estimate those impacts, avoided costs and the
105 techniques used to estimate those costs, the estimated cost-effectiveness of the
106 demand-side programs, and the net economic benefits of the demand-side
107 programs.

108 13. Charges attributable to demand-side programs under this section shall
109 be clearly shown as a separate line item on bills to the electrical corporation's
110 customers.

111 14. The commission shall develop rules that provide for disclosure of
112 participants in all demand-side programs offered by electrical **or gas** corporations
113 under this section when such programs provide monetary incentives to the
114 customer. The disclosure required by this subsection may include, but not be
115 limited to, the following: the name of the participant, or the names of the
116 principals if for a company, the property address, and the amount of the monetary
117 incentive received.

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