

FIRST REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 242
99TH GENERAL ASSEMBLY

Reported from the Committee on Commerce, Consumer Protection, Energy and the Environment, February 27, 2017, with recommendation that the Senate Committee Substitute do pass.

1022S.03C

ADRIANE D. CROUSE, Secretary.

AN ACT

To repeal section 393.1012, RSMo, and to enact in lieu thereof twelve new sections relating to ratemaking for gas corporations.

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

Section A. Section 393.1012, RSMo, is repealed and twelve new sections
2 enacted in lieu thereof, to be known as sections 393.1012, 393.1700, 393.1705,
3 393.1710, 393.1715, 393.1720, 393.1725, 393.1730, 393.1735, 393.1740, 393.1745,
4 and 393.1750, to read as follows:

393.1012. 1. Notwithstanding any provisions of chapter 386 and this
2 chapter to the contrary, beginning August 28, 2003, a gas corporation providing
3 gas service may file a petition and proposed rate schedules with the commission
4 to establish or change ISRS rate schedules that will allow for the adjustment of
5 the gas corporation's rates and charges to provide for the recovery of costs for
6 eligible infrastructure system replacements. The commission may not approve
7 an ISRS to the extent it would produce total annualized ISRS revenues below the
8 lesser of one million dollars or one-half of one percent of the gas corporation's
9 base revenue level approved by the commission in the gas corporation's most
10 recent general rate proceeding. The commission may not approve an ISRS to the
11 extent it would produce total annualized ISRS revenues exceeding ten percent of
12 the gas corporation's base revenue level approved by the commission in the gas
13 corporation's most recent general rate proceeding. An ISRS and any future
14 changes thereto shall be calculated and implemented in accordance with the
15 provisions of sections 393.1009 to 393.1015. ISRS revenues shall be subject to a
16 refund based upon a finding and order of the commission to the extent provided
17 in subsections 5 and 8 of section 393.1009.

18 2. The commission shall not approve an ISRS for any gas corporation that

19 has not had a general rate proceeding decided or dismissed by issuance of a
20 commission order within the past three years, unless the gas corporation has filed
21 for or is the subject of a new general rate proceeding. **This subsection shall**
22 **not apply to a participating gas corporation whose rates are set under**
23 **sections 393.1700 to 393.1750.**

24 3. In no event shall a gas corporation collect an ISRS for a period
25 exceeding three years unless the gas corporation has filed for or is the subject of
26 a new general rate proceeding; provided that the ISRS may be collected until the
27 effective date of new rate schedules established as a result of the new general
28 rate proceeding, or until the subject general rate proceeding is otherwise decided
29 or dismissed by issuance of a commission order without new rates being
30 established. **This subsection shall not apply to a participating gas**
31 **corporation whose rates are set under sections 393.1700 to 393.1750.**

32 4. In order for a gas corporation to file a petition with the
33 commission to establish or change an ISRS, such corporation shall, by
34 July 1, 2018, develop and file with the commission a pre-qualification
35 process for contractors seeking to participate in competitive bidding
36 to install ISRS-eligible gas utility plant projects. Under the pre-
37 qualification process, the gas corporation may specify certain
38 eligibility requirements typically accepted by the industry, including
39 but not limited to, experience, performance criteria, safety policies, and
40 insurance or indemnification met by any contractor seeking to
41 participate in competitive bidding to install ISRS-eligible gas utility
42 plant projects. Contractors that meet the pre-qualification criteria set
43 by the gas corporation shall be eligible to participate in the
44 competitive bidding process for installing ISRS-eligible gas utility plant
45 projects, with the winning bid awarded to the contractor making the
46 overall lowest and best bid, as defined in subsection 2 of section
47 34.010. The gas corporation shall file, by January 1, 2019, a verified
48 statement with the commission confirming that it has in place a pre-
49 qualification process for the competitive bidding of ISRS-eligible gas
50 utility plant projects, and that such process conforms with the
51 requirements of this section. The commission shall have the authority
52 to verify the statement to ensure compliance with this section. After
53 January 1, 2019, the gas corporation shall submit with each petition
54 filing to establish or change an ISRS a verified statement confirming
55 that it is using a competitive bidding process for no less than ten

56 percent of the combined external installation expenditures made by the
57 gas corporation's operating units in Missouri for installing ISRS-
58 eligible gas utility plant projects, and that such process conforms with
59 the requirements set forth in this section. The commission shall have
60 the authority to verify the statement to ensure compliance with this
61 section. Nothing in this section shall be construed as requiring any gas
62 corporation to use a pre-qualified contractor or competitive bidding
63 process in the case of an emergency project, or to terminate any
64 existing contract with a contractor prior to its expiration; provided
65 however, that the use of any preexisting contract for the installation of
66 ISRS-eligible gas utility plant projects shall not qualify as fulfilling the
67 ten percent requirement set forth in this section beyond December 31,
68 2019. For contractors not qualifying through the competitive bid
69 process, the gas corporation, upon request from the contractor, shall
70 provide information from the process in which the contractor can be
71 informed as to how to be better positioned to qualify for such bid
72 opportunities in the future.

73 5. By December 31, 2020, and annually thereafter, the commission
74 shall submit a report to the general assembly on the effects of
75 subsection 4 of this section, including gas corporation compliance,
76 potential legislative action regarding subsection 4 of this section, the
77 costs of installing ISRS-eligible gas utility plant projects prior to the
78 implementation of subsection 4 of this section compared to after the
79 implementation of subsection 4 of this section, and any other
80 information regarding the processes established under subsection 4 of
81 this section that the commission deems necessary.

82 6. Nothing in this section shall be construed as diminishing in
83 any way the current authority and rights of the commission, on its own
84 motion, the office of the public counsel, the mayor or the president or
85 chairman of the board of aldermen or a majority of the council,
86 commission, or other legislative body of any city, town, village, or
87 county located in the service territory of the gas corporation, or not
88 less than twenty-five consumers or purchasers, or prospective
89 consumers or purchasers, of gas from the gas corporation to file a
90 complaint under section 386.390 alleging that the rates or charges of
91 the gas corporation are unreasonable or unlawful, provided that the
92 reasonableness and lawfulness of the rates of a participating gas

93 corporation, as defined in section 393.1710, shall be governed
94 exclusively by the processes and procedures set forth in sections
95 393.1700 to 393.1750.

393.1700. Sections 393.1700 to 393.1750 shall be known and cited
2 as the "Rate Case Modernization Act".

393.1705. It shall be the policy of this state to apply sections
2 393.1700 to 393.1750 to gas corporations that voluntarily choose to be
3 subject to such sections. The provisions of sections 393.1700 to 393.1750
4 builds upon and extends traditional ratemaking elements and
5 procedures to modernize the rate case process for gas corporations in
6 a manner that will advance the interests of both utilities and their
7 customers, while contributing to economic growth within the
8 state. Sections 393.1700 to 393.1750 seek to accomplish the following
9 goals with a balanced set of modifications that:

10 (1) Better align the interests of gas corporations and their
11 customers by providing meaningful, performance-based accountabilities
12 and incentives to encourage utilities to more aggressively pursue cost
13 efficiencies, improve service quality, and continue to invest in the
14 modernization of their critical infrastructure;

15 (2) Enable growth and business development under terms that
16 will help create jobs and produce benefits for the state while
17 contributing to cost recovery and lower rates for all other customers;

18 (3) Increase customer protections through caps on rate increases,
19 annual true-ups that include an earnings test, retention of commission
20 jurisdiction, the use of traditional ratemaking elements, the
21 requirement for greater transparency and frequency of reporting that
22 will foster better interaction and collaboration between stakeholders
23 in the regulatory process; and

24 (4) Provide customers with greater rate stability by avoiding or
25 mitigating large bill impacts associated with large periodic rate cases
26 and highly variable weather, and by creating conditions that will better
27 enable the utility to provide lower customer charges and more
28 aggressive energy efficiency programs, which will enable customers to
29 achieve meaningful savings on natural gas costs without detrimentally
30 affecting the gas corporation.

393.1710. 1. The provisions of section 386.020 defining words,
2 phrases, and terms shall apply to and determine the meaning of all

3 such words, phrases, or terms as used in sections 393.1700 to 393.1750.

4 2. As used in sections 393.1700 to 393.1750, the following terms
5 shall mean:

6 (1) "Annual rate cap", a limitation on the amount of any increase
7 to the revenue requirement reflected in rates resulting from the
8 application of the earnings test to an annual amount of no more than
9 three and one-half percent of a participating gas corporation's Missouri
10 gross jurisdictional revenues, and no more than an annual average of
11 three percent over any four-year period of annual true-ups, with excess
12 amounts deferred and booked to a regulatory asset account for
13 recovery in a later period. Such limitation is inclusive of any ISRS,
14 reset in the annual true-up;

15 (2) "Annual true-up", an annual filing made by a participating gas
16 corporation to reflect in rates various updated financial and
17 operational results, and utilizing the ratemaking and review process
18 described in sections 393.1700 to 393.1750;

19 (3) "Cost management accountability" or "CMA", an adjustment
20 mechanism used in the annual true-up to better hold a participating
21 gas corporation accountable for and incentivize effective management
22 of its costs, by comparing the updated O&M expense to a performance
23 benchmark approved in the periodic rate proceeding based on the
24 normalized and annualized O&M expense in the then concluding year,
25 updated for increases in the Consumers Price Index-For All Urban
26 Consumers (CPI-U). The CMA shall be subject to a grow and share
27 provision to recognize that significant growth in the gas corporation or
28 its parent corporation benefits customers and the state;

29 (4) "Cost stabilization reserve", a mechanism designed to
30 moderate the impacts of significant extraordinary or force majeure
31 expenses on the revenue requirement recovered through the annual
32 true-up by permitting such costs to be deferred and booked to a
33 regulatory asset account and amortized in rates over a period of three
34 to five years, unless a longer period is otherwise determined by the
35 commission to be appropriate;

36 (5) "Earnings test", a mechanism that calculates the achieved
37 earnings level during the updated test year period to determine if a
38 rate change should be made as part of the annual true-up, based on any
39 over- or under-earnings beyond a basis point range above or below the

40 updated return on equity, subject to the annual rate cap;

41 (6) "Foundational elements", the ratemaking determinations and
42 methods approved or modified by the commission listed under
43 subsection 2 of section 393.1730, as updated or adjusted consistent with
44 the processes and mechanisms set forth in sections 393.1700 to 393.1750;

45 (7) "Grow and share", a provision of the CMA mechanism
46 recognizing significant growth in the gas corporation or its parent
47 corporation. If such growth occurs and the number of utility customers
48 acquired by the participating gas corporation is greater than ten
49 percent of the participating gas corporation's then current number of
50 customers, then the performance benchmark of the CMA shall not be
51 reset during the periodic rate review proceeding for a period of ten
52 years. After year ten, the benchmark used for the annual true-up shall
53 be reset based on the updated O&M expense in the then preceding year;

54 (8) "Initiating general rate proceeding", the initial general rate
55 proceeding required under section 393.1715 to commence the annual
56 true-up and implement the other provisions of sections 393.1700 to
57 393.1750;

58 (9) "ISRS", an infrastructure system replacement surcharge
59 authorized under sections 393.1009 to 393.1015;

60 (10) "Participating gas corporation", a gas corporation that elects
61 to file an initiating general rate proceeding to update rates using
62 annual true-up and periodic rate review proceedings under sections
63 393.1700 to 393.1750;

64 (11) "Performance measurement indicators", service and
65 operational metrics approved by the commission in the participating
66 gas corporation's initiating general rate proceeding or periodic rate
67 review proceeding and utilized in the corporation's subsequent annual
68 true-up to hold a participating gas corporation accountable for
69 managing satisfactory levels of performance in key areas, including but
70 not limited to safety, reliability, customer satisfaction, service, and
71 operations;

72 (12) "Periodic rate review proceeding", the process described in
73 section 393.1730 to review and, if necessary and appropriate, revise
74 foundational elements used to establish rates in the annual true-up;

75 (13) "Revenue requirement", the amount of revenues to be in
76 effect for the next annual period, as calculated in the annual true-up,

77 including any adjustments resulting from application of the earnings
78 test, subject to the annual rate cap, and any adjustment resulting from
79 the application of the CMA, plus any adjustment resulting from the
80 operation of the revenue stabilization mechanism;

81 (14) "Revenue stabilization mechanism", a mechanism that
82 adjusts rates as part of the annual true-up to prevent an over- or under-
83 recovery of authorized distribution revenues due to changes in usage
84 by the participating gas corporation's residential customers and those
85 non-residential customers with annual usage equivalent to, or less than,
86 twenty thousand decatherms;

87 (15) "Updated cost of capital", a calculation used to set rates in
88 the annual true-up for the following annual period. "Updated cost of
89 capital" shall be the product of the updated rate base and the ending
90 pre-tax weighted average cost of capital of the participating gas
91 corporation, based on the updated return on equity and the updated
92 interest rate;

93 (16) "Updated distribution revenues", the distribution-related
94 revenues, annualized for changes in customer levels. Such revenues
95 shall reflect amounts billed by the participating gas corporation during
96 the updated test year, as adjusted to reflect the annualized revenues of
97 the participating gas corporation's then effective ISRS, and accruals
98 booked resulting from the application of the revenue stabilization
99 mechanism, but excluding revenues accounted for through the
100 participating gas corporation's purchased gas adjustment and actual
101 cost adjustment;

102 (17) "Updated ineligible expenses", the updated test year
103 operations and maintenance expenses of the same kind and character
104 as those commonly disallowed by the commission in the participating
105 gas corporation's initiating general rate proceeding or periodic rate
106 review proceeding. Such ineligible expenses shall be excluded from the
107 rates established in any annual true-up unless or until a reviewing
108 court or the commission subsequently determines that such costs were
109 properly includable in rates;

110 (18) "Updated interest rate", the weighted average interest rate
111 for the participating gas corporation's long term debt and preferred
112 stock outstanding as of the end of the updated test year which is used
113 to determine the updated cost of capital for purposes of setting rates

114 in the annual true-up;

115 (19) "Updated operations and maintenance expense" or "updated
116 O&M expense", the normalized and annualized distribution operations
117 and maintenance expense incurred by the participating gas corporation
118 during the updated test year, which shall be calculated by reflecting
119 the normalized and annualized net dollar amount in FERC Accounts
120 700 through 950 "Operation Expenses", less any updated ineligible
121 expenses in such accounts. Such updated O&M expense shall be used
122 for determining the participating gas corporation's performance under
123 the cost management accountability mechanism and making any
124 resulting rate adjustment as part of the corporation's annual true-up;

125 (20) "Updated other expenses", the normalized and annualized
126 depreciation and amortization expense, as well as all federal, state and
127 local taxes, other than gross-receipts, sales and other similar pass-
128 through taxes;

129 (21) "Updated rate base", the ending updated test year balances
130 for the participating gas corporation's investments in net utility
131 property, plant and equipment, including reset ISRS investment
132 amounts, adjusted for related accumulated deferred income taxes, plus
133 cash working capital and working capital, as adjusted consistent with
134 the methodology established for the participating gas corporation in its
135 initiating general rate proceeding or periodic rate review proceeding,
136 plus the ending balance of any cost stabilization reserve amount. The
137 updated rate base shall exclude investments being recovered through
138 the participating gas corporation's purchased gas adjustment and
139 actual cost adjustment;

140 (22) "Updated return on equity", the return on equity authorized
141 for the participating gas corporation in its initiating general rate
142 proceeding or periodic rate review proceeding, adjusted each year in
143 the annual true-up for results of the performance measurement
144 indicators and capital market changes, reflected in long-term United
145 States Treasury Bond yield rates;

146 (23) "Updated test year", the historic annual period between the
147 effective dates of each annual true-up, which is used as the beginning
148 and ending point for establishing the revenue requirement in the
149 annual true-up process.

393.1715. 1. A gas corporation may elect to become a

2 participating gas corporation by filing with the commission an
3 initiating general rate proceeding in which it will provide notice of its
4 election to participate in the update process established under sections
5 393.1700 to 393.1750. Such initiating general rate proceeding shall be
6 conducted in accordance with the procedures and requirements
7 established by the commission for general rate proceedings. The
8 commission shall, with the assistance of the parties to the proceeding,
9 prepare and approve a supplement to the detailed reconciliation
10 required to be filed under subsection 4 of section 386.420, which shall
11 include any additional information required for the participating gas
12 corporation's periodic rate review proceeding, set forth the
13 foundational elements used in calculating rates for the annual true-up.

14 2. If the gas corporation has had new rates become effective in
15 the past two years as a result of a general rate proceeding, then the
16 commission shall, upon the filing of a notice by the gas corporation
17 requesting such action, conduct a proceeding that shall serve as the gas
18 corporation's initiating general rate proceeding. Such a proceeding
19 shall only consider and determine the foundational elements of the
20 periodic rate review proceeding that were not otherwise identified by
21 agreement or by a commission order in the general rate
22 proceeding. Such proceeding shall be conducted and concluded within
23 five months and shall not result in any change in rates.

393.1720. 1. As part of the initiating general rate proceeding, the
2 commission shall approve a revenue stabilization mechanism for a
3 participating gas corporation to address the over- or under-recovery of
4 revenue due to weather and conservation-related changes in usage by
5 residential customers and non-residential customers with annual usage
6 equivalent to, or less than, twenty thousand decatherms. The
7 adjustment shall utilize a deferral account, with interest applied at the
8 participating gas corporation's short term cost of debt, to track and
9 book as a regulatory liability or asset, as applicable, any excessive or
10 deficient revenue due to a change in the assumed commodity use per
11 customer established in the periodic rate review proceeding. Such
12 deferral account shall amortize the difference on an earnings-neutral
13 basis and be excluded from the earnings test. No adjustment shall be
14 made for a variance in the determinants based on number of customers.

15 2. Rates shall be adjusted by the amount necessary to return to,

16 or recover from, customers over the subsequent twelve-month period
17 the difference between the per customer revenues actually billed by the
18 participating gas corporation during the most recent updated test year
19 for the customers identified in subsection 1 of this section, and the per
20 customer revenues authorized in the participating gas corporation's
21 initiating general rate proceeding or periodic rate review proceeding
22 for such customers. The billing determinants used to set rates for such
23 customers in the initiating general rate proceeding or periodic rate
24 review proceeding shall be compared to the billing determinants
25 realized during the updated test year for those same customers to
26 determine the amount of the necessary adjustment. Revenue variations
27 accounted and adjusted for in the participating gas corporation's
28 purchased gas adjustment, actual cost adjustment, and ISRS shall not
29 be considered.

393.1725. 1. At least forty-five days prior to the end of each
2 updated test year, the participating gas corporation shall file tariffs,
3 rate schedules, and minimum filing requirements, including full and
4 complete schedules and supporting documentation, to be used to
5 establish and allocate the revenue requirement to be reflected in rates
6 in the corporation's annual true-up. Any rate changes resulting from
7 such filing shall be placed into effect on an interim basis on the date
8 following the end of the current updated test year, subject to refund.

9 2. The participating gas corporation's annual true-up filing shall
10 be based upon the most recent three quarters of information on the
11 participating gas corporation's books and a pro forma forecast for the
12 remaining quarter. Such forecast shall be of sufficient line item detail
13 to permit adequate review by commission staff, and updated actual
14 results shall be filed at least thirty days before the commission staff's
15 recommendation is due. Any supporting information that is
16 proprietary or confidential may be submitted on a confidential basis
17 under the commission's rules governing such matters. The
18 participating gas corporation shall also submit with the filing
19 supporting accounting schedules showing how the revenue requirement
20 was calculated in accordance with the requirements of this section and
21 the foundational elements approved in the initiating general rate
22 proceeding or the most recently concluded periodic rate review
23 proceeding. Minimum filing requirements shall include:

24 **(1) A full and complete set of financial reports for the**
25 **participating gas corporation's regulated Missouri utility operations for**
26 **the updated test year as such financial reports are finalized based on**
27 **actual results, including the income statement, balance sheet, and cash**
28 **flow statement with line-item detail matching the level of the FERC**
29 **Form 2 or the annual distribution utility report provided to the**
30 **commission. The financials should be adjusted to reflect the**
31 **application of the foundational elements approved in the initiating**
32 **general rate proceeding or the most recently concluded periodic rate**
33 **review proceeding;**

34 **(2) Updated regulatory assets and liabilities and cost**
35 **stabilization reserve amounts, along with full and complete schedules**
36 **of ending balance of each regulatory asset or liability, whether rate**
37 **base treatment is afforded, and the annual amortization amount to**
38 **include in rates;**

39 **(3) Updated rate base;**

40 **(4) A full and complete accounting and description of updated**
41 **ineligible operating expenses that match the category or type of**
42 **ineligible operating expenses defined in the initiating general rate**
43 **proceeding or the most recently concluded periodic rate review**
44 **proceeding;**

45 **(5) A full and complete set of cost of service schedules normally**
46 **provided in a general rate proceeding along with any detailed**
47 **schedules used to annualize, normalize, or otherwise adjust each**
48 **updated distribution revenue, updated O&M expense, updated other**
49 **expense, and updated cost of capital item for ratemaking purposes;**

50 **(6) A full and complete schedule for the earnings test performed**
51 **using the schedules and amounts prepared under this subdivision. If**
52 **the return achieved in the updated test year exceeds or falls below a**
53 **range of fifty basis points of the updated return on equity, such test**
54 **shall determine the increase or decrease to the revenue requirement**
55 **necessary to bring the return back to the updated return on equity,**
56 **subject to the annual rate cap. The updated return on equity shall first**
57 **apply adjustments based on the results of the performance**
58 **measurement indicators and capital market changes as follows:**

59 **(a) Performance measurement indicator adjustments shall**
60 **compare performance achieved during the updated test year for each**

61 metric to the benchmark range of expected performance approved in
62 the most recent periodic rate review proceeding. For each instance in
63 which the participating gas corporation's performance exceeds the
64 benchmark range of performance for the metric, five one-hundredths
65 of one percent shall be added to the updated return on equity used for
66 the earnings test in the current annual true-up. For each instance in
67 which the participating gas corporation's performance falls below the
68 benchmark range of performance, five one hundredths of one percent
69 shall be subtracted from the updated return on equity used for the
70 earnings test in the current annual true-up. No change in the updated
71 return on equity shall be made for a performance level that falls within
72 the benchmark performance range. To the extent the participating gas
73 corporation's performance in relation to a specific metric was
74 adversely affected during the updated test year by significant changes
75 in its operational systems or processes done to enhance the quality of
76 utility service, or by extraordinary events beyond the participating gas
77 corporation's control, then no adjustment for that metric shall be made
78 to the updated return on equity;

79 (b) The updated return on equity used for the earnings test in
80 the current annual true-up shall be adjusted for capital market changes
81 by comparing the starting benchmark capital market rate determined
82 in the initiating general rate proceeding or periodic rate review
83 proceeding to any increase or decrease in the twelve-month average of
84 the thirty-year United States Treasury Bond yield during the applicable
85 updated test year, and the difference shall be applied to adjust the
86 updated return on equity;

87 (7) A full and complete calculation of the CMA, comparing
88 achieved updated O&M expense during the updated test year to the
89 performance benchmark O&M expense level determined at the
90 initiating general rate proceeding or the most recently completed
91 periodic rate review proceeding. An update to that benchmark shall be
92 applied using an inflation factor equal to the CPI-U factor for the
93 updated test year, or one percent, whichever is greater. To the extent
94 the updated O&M expense exceeds or falls below the updated
95 performance benchmark by more than one percent, then half of that
96 difference shall be credited or charged to customers. Such CMA credits
97 or charges shall be excluded from the earnings test, as inclusion of such

98 would offset the impact of the mechanism. If the grow and share
99 provision is in effect, this benchmark shall not be reset for ten years,
100 and after year ten the benchmark used for the annual true-up shall be
101 reset based on the updated O&M expense in the then preceding year.

102 3. The tariffs and rate schedules filed shall reflect the
103 foundational elements approved in the initiating general rate
104 proceeding or the most recently concluded periodic rate review
105 proceeding, including billing determinants and class cost of
106 service. These shall be used to implement the revenue requirement
107 resulting from application of the earnings test, as well as the CMA
108 credit or charge, in accordance with the method approved by the
109 commission for allocating any increase or decrease between and within
110 each customer class.

111 4. Within four months of the filing of the annual true-up, the
112 commission staff shall submit its recommendation verifying that the
113 revenue requirement was calculated and implemented in conformity
114 with this section and based on prudently incurred costs or identifying
115 with specificity any ways in which the update filing was not in
116 conformity with the requirements of this section.

117 5. If the parties to the annual true-up are unable to jointly
118 recommend a revenue requirement to the commission within twenty
119 days of the filing of commission staff's report, the commission shall
120 establish a procedural schedule so that any contested issues may be
121 adjudicated by the commission with a report and order resolving such
122 differences issued within five months after the filing of the commission
123 staff's report. The commission shall, in such report and order, make
124 permanent the interim rates filed by the participating gas corporation
125 to the extent such rates have been calculated in compliance with the
126 requirements of sections 393.1700 to 393.1750. Any adjustments made
127 by the commission to the revenue requirement shall be reflected in the
128 next annual true-up filing made by the participating gas corporation,
129 subject to judicial review.

130 6. The revenue requirement to be in effect for the next annual
131 period shall include a rebasing of all ISRS implemented and in effect
132 during the updated test period. Any participating gas corporation shall
133 be permitted to make filings under sections 393.1009 to 393.1015, and
134 shall submit a schedule reflecting its estimated capital expenditures for

135 ISRS-eligible projects for the following annual period. Such schedule
136 shall not be binding on the participating gas corporation or be
137 construed as establishing any standard of prudence. The annual rate
138 cap, timing, periodic rate review proceeding requirements, and
139 rebasing ISRS charges set forth in this subsection shall be substituted
140 for any similar rate caps, ISRS rebasing, or general rate proceeding
141 requirements under sections 393.1009 to 393.1015.

142 7. Any annual rate adjustment resulting from the application of
143 the earnings test shall not, when combined with any ISRS charges reset
144 in the annual true-up during the same annual period, exceed an annual
145 increase to the revenue requirement amount equal to three and one-
146 half percent of the prior year's Missouri gross jurisdictional revenues
147 in any one year, nor more than an annual average of three percent over
148 any four-year period of annual true-ups. In addition to the rate
149 adjustment, the participating gas corporation shall be permitted to
150 collect any applicable gross receipts tax, sales tax, or other similar
151 pass-through taxes, and such taxes shall not be counted against the
152 annual rate cap. Any costs not recovered as a result of the annual rate
153 cap limitation on rate adjustments shall be deferred, at a carrying cost
154 each month equal to the participating gas corporation's net of tax, long-
155 term cost of capital, for recovery in a subsequent year's annual true-up
156 or periodic rate review proceeding.

 393.1730. 1. Following the conclusion of the third rate year
2 effectuating an annual true-up, and at conclusion of each third rate
3 year effectuating an annual true-up thereafter, the participating gas
4 corporation and no other party shall file a periodic rate review
5 proceeding. Upon receiving the participating gas corporation's filing,
6 the commission shall review the participating gas corporation's
7 positions and documentation, and allow interested stakeholders to
8 present their own positions and evidence on the matters addressed in
9 the filing within sixty days of the filing date. The participating gas
10 corporation shall be allowed to respond to such positions and evidence
11 within ninety days of the filing date. If any issues remain to be
12 resolved between the parties, the commission shall schedule a hearing
13 to commence within one hundred twenty days of the filing date, and
14 issue an order presenting its determinations and findings on each item
15 within five months of the filing date of the periodic rate review

16 proceeding. Such determinations shall be used to set rates in
17 subsequent annual true-ups, subject to the right of the participating gas
18 corporation and other parties to seek judicial review of the
19 determinations in accordance with applicable law. The existence of a
20 judicial review proceeding shall not preclude a participating gas
21 corporation from filing, or the commission from processing, any
22 subsequent initiating general rate proceeding, annual true-up, or
23 periodic rate review proceeding.

24 2. The periodic rate review filing shall be made at least six
25 months prior to the participating gas corporation's next annual true-up
26 filing, and shall include proposed positions and supporting
27 documentation on each of the following items:

28 (1) A full and complete description of the calculation methods to
29 be used to determine the cash working capital requirement, which shall
30 specify the revenue and expense lag for each revenue and expense item
31 to be considered in establishing such revenue requirement component
32 in the annual true-up;

33 (2) A full and complete description of the calculation methods to
34 be used to determine working capital items, including regulatory assets
35 or liabilities receiving rate base treatment, as well as customer
36 deposits, contributions in aid of construction, other investments
37 required for business purposes, such as materials and supplies,
38 inventories, and prepaid items;

39 (3) A full and complete description of each regulatory asset or
40 liability to be included in rates, including the ending balance of each
41 regulatory asset or liability, whether rate base treatment is afforded in
42 working capital, and the annual amortization amount to be included in
43 rates in the annual true-up;

44 (4) A full and complete description of each item in the cost
45 stabilization reserve. Such description shall include the ending
46 balance of each regulatory asset or liability, whether rate base
47 treatment is afforded, and the annual amortization amount to include
48 in rates in the annual true-up;

49 (5) A full and complete description of the weighted capital
50 structure to be included in rates in the annual true-up, which shall
51 include the weighting used for each component consistent with the
52 actual capitalization of the participating gas corporation, provided that

53 the participating gas corporation's equity component is no less than
54 forty percent and no more than sixty percent of its total capital
55 structure and is within ten percentage points of the equity component
56 of its parent corporation's capital structure, if any;

57 (6) A specification of the return on equity to be used to calculate
58 rates, which shall include the starting benchmark capital market rate
59 to use for the annual true-up. This benchmark rate shall be the most
60 recent twelve-month average of the thirty-year United States Treasury
61 Bond yield as published by the Board of Governors of the Federal
62 Reserve System in its weekly H.15 Statistical Release or any successor
63 publication or, if such yields are no longer published, the yields of the
64 United States Treasury Bonds then having the longest duration
65 published by the Board of Governors in its weekly H.15 Statistical
66 Release or successor publication;

67 (7) A full and complete description of the performance
68 measurement indicators to be used to measure the participating gas
69 corporation's performance, and depending on actual results achieved,
70 potentially adjust the participating gas corporation's updated return
71 on equity in the annual true-up. No fewer than four and no more than
72 six metrics shall be established and approved by the commission to be
73 included in rates in the annual true-up. A benchmark range of
74 acceptable performance shall be established based on the participating
75 gas corporation's historical experience in the area measured over the
76 most recent five years, or shorter period if consistent information is
77 not available, and such range shall be reasonably achievable. Each
78 metric shall be assigned a value of five one-hundredths of one percent,
79 and performance levels above or below the benchmark range shall be
80 used to increase or decrease, respectively, the subsequent updated
81 return on equity;

82 (8) The defined performance benchmark cost level for O&M
83 expense that shall be used for the CMA mechanism for the subsequent
84 annual true-ups to compare against the updated O&M expense. Such
85 benchmark shall be set based on the updated O&M expense in the then
86 concluding updated test year, subject to the grow and share provision
87 of the CMA. If the grow and share provision is in effect, the
88 performance benchmark of the CMA shall not be reset during the
89 periodic rate review proceeding for a period of ten years;

90 **(9) A full and complete description, including the FERC**
91 **account(s), of the categories and types of ineligible operating expenses**
92 **to be excluded from rates in the annual true-up;**

93 **(10) A full and complete description of the methodologies to be**
94 **used to allocate joint and common costs included in rates between the**
95 **participating gas corporation and its affiliates to the extent the**
96 **methodologies differ from those in the commission-approved cost**
97 **allocation manual;**

98 **(11) A full and complete identification of the billing determinants**
99 **to be used to establish rates, for use in the annual true-up and revenue**
100 **stabilization mechanism processes;**

101 **(12) A full and complete identification of the class cost of service**
102 **method to be used to allocate costs between and within each customer**
103 **class, including the rate design to be used for each class, together with**
104 **a specification of the method to be used to allocate any increase or**
105 **decrease in revenue requirement for the annual true-up;**

106 **(13) A full and complete identification of the depreciation rates**
107 **to be used to establish rates included in the annual true-up; and**

108 **(14) A full and complete set of templates to be used for the**
109 **surveillance reports that will be submitted on a quarterly basis to**
110 **report current operating expenses, rate base, revenues, and**
111 **performance metrics used in the annual true-up. Subject to normal**
112 **commission discovery procedures, the participating gas corporation**
113 **shall, as requested by the commission staff, provide supporting**
114 **information for the financial, operational, and accounting results**
115 **reflected in the surveillance reports.**

393.1735. 1. Within six months of the effective date of sections
2 **393.1700 to 393.1750, any participating gas corporation may file, and the**
3 **commission shall approve, tariffs authorizing programs designed to**
4 **retain or attract businesses, jobs, and investment within the state of**
5 **Missouri. Such tariffs shall include provisions that permit the**
6 **participating gas corporation to provide discounted rates and charges**
7 **for utility service as necessary to retain or attract such customer or**
8 **customers, provided that the discounted rates or charges or other tariff**
9 **provisions are sufficient to:**

10 **(1) Recover the depreciation, property tax, and carrying cost of**
11 **any incremental investment made by the participating gas corporation**

12 to retain or attract such customer or customers;

13 (2) Recover the incremental variable costs incurred to serve such
14 customer or customers;

15 (3) Make some positive contribution to the participating gas
16 corporation's fixed costs of serving other customers; and

17 (4) Permit the participating gas corporation to provide long-term
18 financing for the up-front cost of extending gas service to customers or
19 residential or commercial developments with such costs to be recovered
20 through a surcharge of no more than ten years on the rates paid by
21 those customers benefitting from the extension of gas service.

22 2. The rates approved by the commission during the annual true-
23 up shall reflect the actual annualized revenues being received under
24 the discounted rate or long-term financing arrangement.

393.1740. A participating gas corporation may voluntarily
2 terminate its participation in the update process at the conclusion of
3 any updated test year. Upon termination, whether such termination
4 occurs by operation of law, by voluntary action of a participating gas
5 corporation, or for any other reason, the then current rates established
6 under this section shall remain in effect until such time as new rates
7 are set under section 393.150, subject to any adjustment that may be
8 made to such rates based on the commission staff's audit of the last
9 updated test year.

393.1745. On or after December 31, 2025, the commission shall
2 prepare and file with the general assembly a report on the impact of
3 sections 393.1700 to 393.1750 on participating gas corporations and
4 their customers. Participating gas corporations shall cooperate in good
5 faith to provide the data necessary for the preparation of the report
6 required by this section.

393.1750. The commission shall have the authority to promulgate
2 rules and regulations to implement the provisions of sections 393.1700
3 to 393.1745, but only to the extent such rules are consistent with and do
4 not delay the implementation of sections 393.1700 to 393.1745. Any rule
5 or portion of a rule, as that term is defined in section 536.010 that is
6 created under the authority delegated in this section shall become
7 effective only if it complies with and is subject to all of the provisions
8 of chapter 536, and, if applicable, section 536.028. This section and
9 chapter 536 are nonseverable and if any of the powers vested with the

10 **general assembly pursuant to chapter 536, to review, to delay the**
11 **effective date, or to disapprove and annul a rule are subsequently held**
12 **unconstitutional, then the grant of rulemaking authority and any rule**
13 **proposed or adopted after August 28, 2017, shall be invalid and void.**

✓

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Bill

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