

FIRST REGULAR SESSION

SENATE BILL NO. 412

99TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR SCHUPP.

Read 1st time February 9, 2017, and ordered printed.

ADRIANE D. CROUSE, Secretary.

1875S.01I

AN ACT

To repeal section 393.1075, RSMo, and to enact in lieu thereof one new section relating to energy efficiency, with an existing penalty provision.

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Section A. Section 393.1075, RSMo, is repealed and one new section
2 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
2 Efficiency Investment Act".

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

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

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

7 (3) "Demand-side program", any program conducted by the utility to
8 modify the net consumption of electricity on the retail customer's side of the
9 electric meter, including but not limited to energy efficiency measures, load
10 management, demand response, and interruptible or curtailable load, **and the**
11 **utilization of combined heat and power technology to generate**
12 **electricity from waste heat and assist customers with reducing the**
13 **amount of electricity delivered by such electrical corporation,**
14 **notwithstanding that such utilization may not modify consumption of**
15 **energy on the customer's side of the meter;**

16 (4) "Electrical corporation", the same as defined in section
17 386.020, but shall not include an electrical corporation regulated under
18 chapters 386 and 393 but not subject to the commission's jurisdiction
19 over its rates, financing, accounting, or management under subsection

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

20 **2 of section 393.110;**

21 (5) "Energy efficiency", measures that reduce the amount of electricity
22 required to achieve a given end use;

23 [(5)] (6) "Interruptible or curtailable rate", a rate under which a
24 customer receives a reduced charge in exchange for agreeing to allow the utility
25 to withdraw the supply of electricity under certain specified conditions;

26 [(6)] (7) "Total resource cost test", a test that compares the sum of
27 avoided utility costs and avoided probable environmental compliance costs to the
28 sum of all incremental costs of end-use measures that are implemented due to the
29 program, as defined by the commission in rules.

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

34 (1) Provide timely cost recovery for utilities;

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

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

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

55 5. To comply with this section the commission may develop cost recovery

56 mechanisms to further encourage investments in demand-side programs
57 including, in combination and without limitation: capitalization of investments
58 in and expenditures for demand-side programs, rate design modifications,
59 accelerated depreciation on demand-side investments, and allowing the utility to
60 retain a portion of the net benefits of a demand-side program for its shareholders.
61 In setting rates the commission shall fairly apportion the costs and benefits of
62 demand-side programs to each customer class except as provided for in subsection
63 6 of this section. Prior to approving a rate design modification associated with
64 demand-side cost recovery, the commission shall conclude a docket studying the
65 effects thereof and promulgate an appropriate rule.

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

69 7. [Provided that the customer has notified the electric] **A customer**
70 **meeting the criteria specified in this subsection may notify an**
71 **electrical corporation in writing** that the customer elects not to participate in
72 demand-side measures offered by [an] **the electrical corporation as to some or**
73 **all of the customer's electric service accounts. Starting with the first**
74 **day of the billing cycle month occurring after such notification is given,**
75 **[none of the costs of] charges arising from** demand-side measures of [an
76 electric] **the electrical** corporation offered under this section or by any other
77 authority[, and no other charges implemented in accordance with this section,]
78 shall **not** be [assigned to any account of any customer] **included on the bill for**
79 **any account of the customer specified in such notice, including any bill**
80 **for such an account issued to** its affiliates and subsidiaries[, meeting]. **To**
81 **be eligible to give the notice provided for in this subsection, the**
82 **customer shall meet** one or more of the following criteria:

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

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

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

92 8. **Eligible** customers that have [notified] **provided notice under**
93 **subsection 7 of this section to** the electrical corporation that they do not wish
94 to participate in demand-side programs under this section **as to some, or all,**
95 **of their electric service accounts** shall not subsequently be eligible to
96 participate in demand-side programs [except under guidelines established by the
97 commission in rulemaking] **for the specified accounts unless the customer**
98 **provides an additional notice, in writing, rescinding its previous notice**
99 **as to some or all of the customer's accounts.**

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

103 10. Customers electing not to participate in an electric corporation's
104 demand-side programs under this section shall still be allowed to participate in
105 interruptible or curtailable rate schedules or tariffs offered by the electric
106 corporation.

107 11. The commission shall provide oversight and may adopt rules and
108 procedures and approve corporation-specific settlements and tariff provisions,
109 independent evaluation of demand-side programs, as necessary, to ensure that
110 electric corporations can achieve the goals of this section. Any rule or portion of
111 a rule, as that term is defined in section 536.010, that is created under the
112 authority delegated in this section shall become effective only if it complies with
113 and is subject to all of the provisions of chapter 536 and, if applicable, section
114 536.028. This section and chapter 536 are nonseverable and if any of the powers
115 vested with the general assembly pursuant to chapter 536 to review, to delay the
116 effective date, or to disapprove and annul a rule are subsequently held
117 unconstitutional, then the grant of rulemaking authority and any rule proposed
118 or adopted after August 28, 2009, shall be invalid and void.

119 12. Each electric corporation shall submit an annual report to the
120 commission describing the demand-side programs implemented by the utility in
121 the previous year. The report shall document program expenditures, including
122 incentive payments, peak demand and energy savings impacts and the techniques
123 used to estimate those impacts, avoided costs and the techniques used to estimate
124 those costs, the estimated cost-effectiveness of the demand-side programs, and the
125 net economic benefits of the demand-side programs.

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

128 customers.

129 14. [(1) Any customer of an electrical corporation who has received a
130 state tax credit under sections 135.350 to 135.362 or under sections 253.545 to
131 253.561 shall not be eligible for participation in any demand-side program offered
132 by an electrical corporation under this section if such program offers a monetary
133 incentive to the customer, except as provided in subdivision (4) of this subsection.

134 (2) As a condition of participation in any demand-side program offered by
135 an electrical corporation under this section when such program offers a monetary
136 incentive to the customer, the commission shall develop rules that require
137 documentation to be provided by the customer to the electrical corporation to
138 show that the customer has not received a tax credit listed in subdivision (1) of
139 this subsection.

140 (3) The penalty for a customer who provides false documentation under
141 subdivision (2) of this subsection shall be a class A misdemeanor.

142 (4) The provisions of this subsection shall not apply to any low-income
143 customer who would otherwise be eligible to participate in a demand-side
144 program that is offered by an electrical corporation to low-income customers.

145 15.] The commission shall develop rules that provide for disclosure of
146 participants in all demand-side programs offered by electrical corporations under
147 this section when such programs provide monetary incentives to the
148 customer. The disclosure required by this subsection may include, but not be
149 limited to, the following: the name of the participant, or the names of the
150 principles if for a company, the property address, and the amount of the monetary
151 incentive received.

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