

FIRST EXTRAORDINARY SESSION

SENATE BILL NO. 6

99TH GENERAL ASSEMBLY

INTRODUCED BY SENATORS EMERY, KEHOE, WASSON, ONDER AND CURLS.

Read 1st time May 22, 2017, and ordered printed.

ADRIANE D. CROUSE, Secretary.

2417S.01I

AN ACT

To amend chapter 393, RSMo, by adding thereto three new sections relating to ratemaking for electrical corporations, with an emergency clause.

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

Section A. Chapter 393, RSMo, is amended by adding thereto three new
2 sections, to be known as sections 393.355, 393.356, and 393.1410, to read as
3 follows:

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

3 **(1) "Aluminum smelting facility", a facility whose primary
4 industry is the smelting of aluminum and primary metals, Standard
5 Industrial Classification Code 3334;**

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

9 **(3) "Steel works facility", a facility whose primary industry is the
10 production or fabrication of steel, North American Industry
11 Classification System 331110.**

12 **2. Notwithstanding section 393.130 or any other provision of law
13 to the contrary, the public service commission shall have the authority
14 to approve a special rate that is not based on the electrical
15 corporation's cost of service for an aluminum smelting facility or a
16 steel works facility if the commission:**

17 **(1) Determines the special rate is in the interest of the state of
18 Missouri when considering the collective interests of the customers of
19 the electrical corporation serving the facility and the interests of the**

20 citizens of the state generally in promoting economic development,
21 improving the tax base, and providing employment opportunities in the
22 state;

23 (2) In each general rate proceeding of the electrical corporation
24 serving the facility, allocates the reduced revenues from the special
25 rate as compared to the revenues that would have been generated at
26 the rate the facility would have paid without the special rate to the
27 electrical corporation's other customers through a uniform percentage
28 adjustment to all components of the base rates of all customer classes;
29 and

30 (3) Approves a tracking mechanism meeting the requirements of
31 subsection 3 of this section.

32 3. Any commission order approving a special rate authorized by
33 this section to provide service to an aluminum smelting facility or steel
34 works facility in the manner specified in subsection 4 of this section
35 shall establish a tracking mechanism to track changes in the net
36 margin experienced by the electrical corporation serving the facility
37 with the tracker to apply retroactively to the date the electrical
38 corporation's base rates were last set in its last general rate proceeding
39 concluded prior to the effective date of this section. The commission
40 shall ensure that the changes in net margin experienced by the
41 electrical corporation between general rate proceedings as a result of
42 serving the facility are calculated in such a manner that the electrical
43 corporation's net income is neither increased nor decreased. The
44 changes in net margin shall be deferred to a regulatory liability or
45 regulatory asset, as applicable, with the balance of such regulatory
46 asset or liability to be included in the revenue requirement of the
47 electrical corporation in each of its general rate proceedings through
48 an amortization of the balance over a reasonable period until fully
49 returned to or collected from the electrical corporation's customers.

50 4. An electrical corporation is authorized to provide electric
51 service to an aluminum smelting facility or steel works facility at a
52 special rate authorized by this section in one of two ways:

53 (1) Under a rate schedule reflecting the special rate if the facility
54 is located within the electrical corporation's certificated service
55 territory; or

56 **(2) Notwithstanding section 393.170, under a contract between**
57 **the facility and the electrical corporation reflecting the special rate**
58 **approved by the commission under the terms and conditions of this**
59 **section.**

60 **In any case where the electric service is provided under a contract**
61 **referenced in subdivision (2) of this subsection, the facility shall be a**
62 **retail electric customer of the commission-regulated electrical**
63 **corporation and the rates, charges, and revenues under the contract**
64 **shall, for ratemaking purposes, be treated by the commission as if the**
65 **rates, charges, and revenues arise under the electrical corporation's**
66 **tariff.**

67 **5. To receive a special rate, the facility shall file a written**
68 **application with the commission specifying the requested special rate,**
69 **any terms or conditions proposed by the facility respecting the**
70 **requested special rate, and provide information regarding how the**
71 **requested special rate meets the criteria specified in subdivision (1) of**
72 **subsection 2 of this section and, if service is to be provided under**
73 **subdivision (2) of subsection 4 of this section, including the contract**
74 **agreed upon by the facility and the electrical corporation. A special**
75 **rate provided for by this section shall not continue beyond ten years**
76 **after the date of its approval or December 31, 2027, whichever occurs**
77 **first. The commission may impose such conditions on the special rate**
78 **as it deems appropriate so long as it otherwise complies with the**
79 **provisions of this section.**

393.356. Electrical corporations may file proposed rate or
2 **regulatory mechanisms or plans with the commission for the**
3 **commission's approval. If such a mechanism or plan is approved by the**
4 **commission as filed or is approved by the commission with**
5 **modifications acceptable to the electrical corporation, or if the**
6 **commission approves a special rate under section 393.355, the**
7 **commission shall lack the authority to modify or eliminate any such**
8 **mechanism, plan, or special rate during the specified term.**

393.1410. 1. As used in this section, "electrical corporation" shall
2 **mean the same as defined in section 386.020, but shall not include an**
3 **electrical corporation as described in subsection 2 of section 393.110.**

4 **2. It shall be the policy of the state of Missouri for the**

5 commission to support expenditures by electrical corporations that
6 maintain or improve the reliability, safety, security, or automation of
7 electric infrastructure, including through the use of the latest
8 technologies to meet the needs and expectations of customers. It shall
9 also be the policy of the state of Missouri for the commission to approve
10 rates designed to allow electrical corporations to recover their full cost
11 of service and provide a reasonable opportunity to earn a fair return.

12 3. The commission may utilize rate adjustment mechanisms not
13 otherwise specifically authorized by statute including, but not limited
14 to, mechanisms to promote modernization and replacement of an
15 electrical corporation's infrastructure. The commission may also use
16 partially forecasted test years, true-ups of retail revenue requirement
17 components, tracking mechanisms, grid modernization incentive
18 mechanisms, interim rates, performance-based ratemaking, revenue
19 decoupling with regular adjustments, or decisional pre-approval with
20 post construction review of construction projects. To the extent the
21 commission's approval of a rate adjustment mechanism or other
22 mechanism provided for by this section specifies a term over which the
23 approval is to continue, the commission shall lack the authority to
24 modify or eliminate the electrical corporation's use of the mechanism
25 or tool during the specified term.

26 4. The commission may promulgate rules for the implementation
27 of this section. Any rule or portion of a rule, as that term is defined in
28 section 536.010 that is created under the authority delegated in this
29 section shall become effective only if it complies with and is subject to
30 all of the provisions of chapter 536, and, if applicable, section
31 536.028. This section and chapter 536 are nonseverable and if any of
32 the powers vested with the general assembly pursuant to chapter 536,
33 to review, to delay the effective date, or to disapprove and annul a rule
34 are subsequently held unconstitutional, then the grant of rulemaking
35 authority and any rule proposed or adopted after the effective date of
36 this section, shall be invalid and void.

Section B. Because of the immediate need to create new jobs, and to allow
2 the public service commission flexibility in electric utility ratemaking in order to
3 achieve job creation, section A of this act is deemed necessary for the immediate

4 preservation of the public health, welfare, peace and safety, and is hereby
5 declared to be an emergency act within the meaning of the constitution, and
6 section A of this act shall be in full force and effect upon its passage and
7 approval.

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Bill

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