

SECOND REGULAR SESSION

# SENATE BILL NO. 935

97TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR HOLSMAN.

Read 1st time February 26, 2014, and ordered printed.

TERRY L. SPIELER, Secretary.

6237S.011

## AN ACT

To repeal section 393.1075, RSMo, and to enact in lieu thereof one new section relating to solar rebates, with existing penalty provisions.

*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Section A. Section 393.1075, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 393.1075, to read as follows: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 on the retail customer's side of the electric meter, including but not limited to energy efficiency measures, **solar rebates**, load management, demand response, and interruptible or curtailable load;

(4) "Energy efficiency", measures that reduce the amount of electricity 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 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 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 corporations to implement  
32 commission-approved demand-side programs proposed pursuant to this section  
33 with a goal of achieving all cost-effective demand-side savings. Recovery for such  
34 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 corporation that the  
61 customer elects not to participate in demand-side measures offered by an  
62 electrical corporation, none of the costs of demand-side measures of an electric  
63 corporation offered under this section or by any other authority, and no other  
64 charges implemented in accordance with this section, shall be assigned to any  
65 account of any customer, including its affiliates and subsidiaries, meeting one or  
66 more of the following criteria:

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

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

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

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

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

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

87           11. The commission shall provide oversight and may adopt rules and  
88 procedures and approve corporation-specific settlements and tariff provisions,  
89 independent evaluation of demand-side programs, as necessary, to ensure that  
90 electric corporations can achieve the goals of this section. Any rule or portion of  
91 a rule, as that term is defined in section 536.010, that is created under the  
92 authority delegated in this section shall become effective only if it complies with

93 and is subject to all of the provisions of chapter 536 and, if applicable, section  
94 536.028. This section and chapter 536 are nonseverable and if any of the powers  
95 vested with the general assembly pursuant to chapter 536 to review, to delay the  
96 effective date, or to disapprove and annul a rule are subsequently held  
97 unconstitutional, then the grant of rulemaking authority and any rule proposed  
98 or adopted after August 28, 2009, shall be invalid and void.

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

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

109         14. (1) Any customer of an electrical corporation who has received a state  
110 tax credit under sections 135.350 to 135.362 or under sections 253.545 to 253.561  
111 shall not be eligible for participation in any demand-side program offered by an  
112 electrical corporation under this section if such program offers a monetary  
113 incentive to the customer, except as provided in subdivision (4) of this subsection.

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

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

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

125         15. The commission shall develop rules that provide for disclosure of  
126 participants in all demand-side programs offered by electrical corporations under  
127 this section when such programs provide monetary incentives to the  
128 customer. The disclosure required by this subsection may include, but not be

129 limited to, the following: the name of the participant, or the names of the  
130 principles if for a company, the property address, and the amount of the monetary  
131 incentive received.

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