

SECOND REGULAR SESSION

HOUSE BILL NO. 2197

97TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE MCNEIL.

5645L.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To amend chapter 393, RSMo, by adding thereto seven new sections relating to the Missouri energy efficiency performance standard.

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

Section A. Chapter 393, RSMo, is amended by adding thereto seven new sections, to be
2 known as sections 393.1080, 393.1083, 393.1086, 393.1089, 393.1092, 393.1095, and 393.1098,
3 to read as follows:

**393.1080. 1. Sections 393.1080 to 393.1098 shall be known as the "Missouri Energy
2 Efficiency Performance Standard".**

3 2. As used in sections 393.1080 to 393.1098, the following terms shall mean:

4 (1) "Baseline":

**5 (a) For electric energy savings, the average of the total kilowatt-hours the electric
6 utility delivered in the preceding two calendar years to customers in this state; or**

**7 (b) For gas energy savings, the average of the total cubic feet of natural gas
8 delivered by the natural gas utility in the preceding two calendar years to customers in this
9 state; or**

**10 (c) For peak demand reduction, the average of the annual peak demand of the
11 electric utility in the preceding two calendar years;**

12 (2) "Commission", the Missouri public service commission;

13 (3) "Corporation", an electrical or gas corporation as defined in section 386.020;

**14 (4) "Total resource cost test", the test defined under subdivision (6) of subsection
15 2 of section 393.1075;**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

16 (5) "Utility", an electrical or gas corporation, municipal utility, or rural electric
17 cooperative, unless otherwise specified.

 393.1083. 1. An electrical corporation shall implement programs that achieve the
2 following incremental savings starting from the baseline:

3 (1) For 2015, three-tenths percent of total annual energy and one percent of annual
4 peak demand;

5 (2) For 2016, five-tenths percent of total annual energy and one percent of annual
6 peak demand;

7 (3) For 2017, seventh-tenths percent of total annual energy and one percent of
8 annual peak demand;

9 (4) For 2018, nine-tenths percent of total annual energy and one percent of annual
10 peak demand;

11 (5) For 2019, one and one-tenth percent of total annual energy and one percent of
12 annual peak demand;

13 (6) For 2020, one and three-tenths percent of total annual energy and one percent
14 of annual peak demand;

15 (7) For 2021, one and five-tenths percent of total annual energy and one percent of
16 annual peak demand;

17 (8) For 2022, one and seven-tenths percent of total annual energy and one percent
18 of annual peak demand; and

19 (9) For 2023, and subsequent years, unless additional energy savings and demand
20 savings goals are established by the commission, one and nine-tenths percent of total
21 annual energy and one percent of annual peak demand each year.

22 2. Beginning January 1, 2015, a gas corporation shall implement energy efficiency
23 programs that annually achieve natural gas energy savings equivalent to at least two-tenths
24 of one percent of the baseline. The annual savings amount to be achieved shall increase to
25 five-tenths of one percent of the baseline beginning January 1, 2016, to one percent
26 beginning January 1, 2018, and then to one and one-half percent of the baseline beginning
27 January 1, 2021, and each year thereafter.

28 3. By January 1, 2023, the commission shall decide whether to maintain or increase
29 the annual savings requirements. The commission may reduce the requirement for a
30 corporation only if, upon application by the corporation, the commission determines that
31 the utility cannot continue to achieve the target due to regulatory, economic or
32 technological reasons beyond the utility's or the commission's reasonable control.

33 4. If an electrical or gas corporation's incremental energy savings in any year
34 exceeds the applicable performance standard established in this section, those extra savings

35 may be carried forward and credited to the next year's standard, subject to the following
36 provisions:

37 (1) The amount of any savings carried forward shall not exceed one-third of the
38 next year's standard; and

39 (2) Any savings carried forward shall not be used toward claiming any utility
40 incentive under section 393.1075 or sections 393.1080 to 393.1098 outside the year in which
41 the savings were realized, however, any such savings carried forward may be applied in
42 the consideration of any penalties under section 393.1095.

393.1086. 1. Within nine months of August 28, 2014, the commission shall
2 promulgate rules to implement sections 393.1080 to 393.1098 and to specify the procedure
3 for electrical and gas corporations to develop and submit energy efficiency plans to meet
4 the energy efficiency performance standard. To the extent applicable, the commission shall
5 follow the provisions of section 393.1075, except that in the event of a conflict between
6 section 393.1075 and sections 393.1080 to 393.1098, the provisions of sections 393.1080 to
7 393.1098 shall prevail.

8 2. The commission's rules under this section shall:

9 (1) Require corporations to provide customers, upon request, with two years of
10 energy consumption data in an accessible form;

11 (2) Specify procedures and standards for measuring eligible electricity savings and
12 natural gas savings;

13 (3) Specify procedures and standards for third-party verification, to be reported
14 to the commission and the utilities, of utility reported electricity savings or natural gas
15 savings;

16 (4) Provide for the ability of a corporation to earn a financial incentive, on an
17 annual basis, for exceeding the energy efficiency performance standard under section
18 393.1083; and

19 (5) Provide for a statewide stakeholder collaborative to fulfill at least the following
20 functions:

21 (a) To recommend new programs for inclusion in the utility program plans, and
22 to review program designs in advance of plan filings;

23 (b) To establish agreed-upon performance metrics for measuring portfolio and
24 program performance;

25 (c) To review plan progress against metrics and against the performance targets
26 set out in the rule;

27 (d) To review program budget shifts between programs where the change exceeds
28 twenty percent of the budget;

29 (e) To explore joint programs if doing so would reduce program costs and increase
30 savings;

31 (f) To monitor the work of the independent evaluators.

32 3. Any rules developed under subdivision (2) of subsection 2 of this section shall:

33 (1) Require that energy savings estimates for customer facilities or portions of
34 facilities be adjusted, as appropriate, to account for changes in weather, level of
35 production, and building area so that only energy savings attributable to energy efficiency
36 investments are counted toward the performance standard;

37 (2) Account for the useful life of electricity and natural gas saving measures;

38 (3) Allow for the use of deemed savings values, where justified, for specific,
39 commonly used efficiency measures;

40 (4) Allow for savings from a program to be estimated based on a statistical sample
41 of participating customers and extrapolated to all participating customers; and

42 (5) Exclude savings that are not properly attributable to measures carried out by
43 the entity seeking the credit for such savings, or a designated agent of the entity, or have
44 already been credited under sections 393.1080 to 393.1098 to another entity or to the same
45 entity.

46 4. Any rule or portion of a rule, as that term is defined in section 536.010, that is
47 created under the authority delegated in this section shall become effective only if it
48 complies with and is subject to all of the provisions of chapter 536 and, if applicable,
49 section 536.028. This section and chapter 536 are nonseverable and if any of the powers
50 vested with the general assembly pursuant to chapter 536 to review, to delay the effective
51 date, or to disapprove and annul a rule are subsequently held unconstitutional, then the
52 grant of rulemaking authority and any rule proposed or adopted after August 28, 2014,
53 shall be invalid and void.

393.1089. 1. Within six months of the effective date of the regulations promulgated
2 by the commission under sections 393.1080 to 393.1098, and biennially thereafter, an
3 electrical or gas corporation shall file an energy efficiency plan with the commission.

4 2. An energy efficiency plan filed with the commission under this section shall do
5 all of the following:

6 (1) Propose a set of energy efficiency programs and a set of peak demand reduction
7 programs that include offerings for each customer class, including low income residential.
8 Training and educational programs and emerging technology pilot programs may count
9 toward the standards;

10 (2) Specify necessary funding levels for proposed programs and ensure that no less
11 than five percent of program funding goes to evaluation, measurement, and verification;

- 12 **(3) Describe how costs will be recovered;**
- 13 **(4) Ensure, to the extent feasible, that charges collected from a particular customer**
14 **rate class are spent on programs for that rate class;**
- 15 **(5) Demonstrate that the proposed programs and funding are sufficient to ensure**
16 **the achievement of applicable energy efficiency performance standards under section**
17 **393.1083, and how they compare to the goal of achieving all cost-effective demand-side**
18 **savings in subsection 4 of section 393.1075;**
- 19 **(6) Demonstrate that the corporation's energy efficiency and demand reduction**
20 **portfolios will be cost-effective, using the total resource cost test;**
- 21 **(7) Provide for the practical and effective administration of the proposed programs.**
22 **The commission shall allow corporations flexibility in designing their programs and**
23 **administrative approaches. A corporation's programs, or any part thereof, may be**
24 **administered, at the corporation's option, by the corporation alone or jointly with other**
25 **utilities, by a state agency, or by an appropriate, experienced organization selected after**
26 **a competitive bid process. The commission may allow for the coordination of programs**
27 **among consenting utilities where feasible, if doing so would help to maximize energy**
28 **savings on a statewide basis. However, money spent by a utility to comply with sections**
29 **393.1080 to 393.1098 shall only be used to fund programs that provide services in that**
30 **utility's service territory; and**
- 31 **(8) Include a process for independent third-party measurement and verification of**
32 **incremental energy savings from each program. All such evaluations shall be subject to**
33 **public review and commission oversight.**
- 34 **3. An energy efficiency plan may provide for the corporation to facilitate third-**
35 **party loans to customers to finance energy efficiency and demand reduction measures.**
- 36 **4. (1) Within one hundred twenty days of receiving an energy efficiency plan from**
37 **a corporation and after an opportunity for public comment, the commission shall approve,**
38 **approve with changes consented to by the corporation, or reject the plan.**
- 39 **(2) If the commission rejects the plan, the commission shall state the reasons for its**
40 **action.**
- 41 **(3) Within thirty days after the commission rejects a plan, the corporation shall**
42 **submit a revised plan that addresses the reasons for rejection cited by the commission.**
- 43 **(4) Within thirty days after receiving a revised plan and after an opportunity for**
44 **public comment, the commission shall approve, approve with changes consented to by the**
45 **corporation, or reject the revised plan. If the commission rejects the revised plan, the**
46 **commission shall state the reasons for the rejection.**

47 (5) Any delay caused by the failure of a corporation to file an acceptable revised
48 plan shall not be used as a reason to avoid penalties under section 393.1095.

49 (6) The procedure for rejected plans under this subsection shall be repeated until
50 a revised plan is approved or approved with changes consented to by the corporation. The
51 commission's action under this section does not affect the applicability of the requirements
52 of section 393.1083 or 393.1095.

 393.1092. 1. By a date determined by the commission, each corporation shall
2 submit to the commission an annual report that provides information relating to the
3 actions taken by the corporation to comply with the energy efficiency performance
4 standards under section 393.1083. By that same date, a municipally-owned utility or a
5 cooperative utility shall submit a similar report to its governing body.

6 2. An annual report under subsection 1 of this section shall include all of the
7 following information:

8 (1) The estimated annual electricity or natural gas savings achieved by the
9 corporation through energy efficiency programs provided during the reporting period;

10 (2) An estimate of the annual and life-cycle carbon dioxide emissions avoided by
11 the energy efficiency programs implemented during the reporting period;

12 (3) The estimated incremental peak reduction achieved through peak demand
13 reduction programs during the reporting period;

14 (4) Expenditures made on energy efficiency and peak demand reduction programs
15 during the reporting period and anticipated future expenditures to comply with sections
16 393.1080 to 393.1098;

17 (5) The cost effectiveness of implemented portfolios; and

18 (6) Any other information that the commission determines necessary.

19 3. Five years after August 28, 2014, and every five years thereafter, the commission
20 shall produce a report that includes all of the following information:

21 (1) A summary of data collected under sections 393.1080 to 393.1098;

22 (2) The status of energy efficiency in this state;

23 (3) For the total portfolio of energy efficiency programs, a comparison of the cost
24 of the energy efficiency versus the cost of electricity from a new conventional coal-fired
25 electric generating facility;

26 (4) An evaluation of whether the Missouri energy efficiency performance standard
27 has been cost effective;

28 (5) A description of the impact of the Missouri energy efficiency performance
29 standard on employment in this state;

30 **(6) Any recommendations the commission may have concerning amendments to**
31 **sections 393.1080 to 393.1098, including changes in the performance standard percentage**
32 **minimums.**

393.1095. If a gas or electrical corporation fails to demonstrate compliance with an
2 **applicable performance standard under section 393.1083, the commission shall assess a**
3 **civil penalty for each such failure in an amount equal to:**

4 **(1) One hundred dollars per megawatt-hour of electricity savings that the electrical**
5 **corporation failed to achieve; or**

6 **(2) Ten dollars per million Btu of natural gas savings that the gas corporation failed**
7 **to achieve. The commission may annually adjust the amounts based on the rate of inflation**
8 **according to the consumer price index. The amounts assessed shall be paid to the**
9 **department of natural resources and used solely for its energy efficiency programs.**

393.1098. Each distribution cooperative utility and municipal utility shall be
2 **subject to section 393.1083 and subsections 1 and 2 of section 393.1092. A generation and**
3 **transmission cooperative that provides energy services to distribution cooperatives may act**
4 **on behalf of the cooperatives it serves. A joint municipal utility commission may act on**
5 **behalf of its contracting municipalities. Cooperative and municipal utilities may, jointly**
6 **or severally, contract with third-party administrators in fulfilling the terms of sections**
7 **393.1080 to 393.1098.**

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