

SECOND REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]
SENATE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 2120
100TH GENERAL ASSEMBLY

4879S.08T

2020

AN ACT

To repeal sections 67.5122, 393.1009, 393.1012, 393.1015, and 620.2459, RSMo, and to enact in lieu thereof ten new sections relating to utility infrastructure.

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

Section A. Sections 67.5122, 393.1009, 393.1012, 393.1015, and 620.2459, RSMo, are
2 repealed and ten new sections enacted in lieu thereof, to be known as sections 67.5122,
3 393.1009, 393.1012, 393.1015, 620.2459, 640.141, 640.142, 640.144, 640.145, and 701.200, to
4 read as follows:

67.5122. Sections 67.5110 to 67.5122 shall expire on January 1, [~~2024~~] **2025**, except that
2 for small wireless facilities already permitted or collocated on authority poles prior to such date,
3 the rate set forth in section 67.5116 for collocation of small wireless facilities on authority poles
4 shall remain effective for the duration of the permit authorizing the collocation.

393.1009. As used in sections 393.1009 to 393.1015, the following terms mean:

(1) "Appropriate pretax revenues", the revenues necessary to produce net operating
3 income equal to:

(a) The gas corporation's weighted cost of capital multiplied by the net original cost of
5 eligible infrastructure system replacements, including recognition of accumulated deferred
6 income taxes and accumulated depreciation associated with eligible infrastructure system
7 replacements which are included in a currently effective ISRS; and

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.

- 8 (b) Recover state, federal, and local income or excise taxes applicable to such income;
9 and
- 10 (c) Recover all other ISRS costs;
- 11 (2) "Commission", the Missouri public service commission;
- 12 (3) "Eligible infrastructure system replacements", gas utility plant projects that:
- 13 (a) Do not increase revenues by directly connecting the infrastructure replacement to new
14 customers;
- 15 (b) Are in service and used and useful;
- 16 (c) Were not included in the gas corporation's rate base in its most recent general rate
17 case; and
- 18 (d) Replace or extend the useful life of an existing infrastructure;
- 19 (4) "Gas corporation", every corporation, company, association, joint stock company or
20 association, partnership and person, their lessees, trustees or receivers appointed by any court
21 whatsoever, owning, operating, controlling, or managing any gas plant operating for public use
22 under privilege, license, or franchise now or hereafter granted by the state or any political
23 subdivision, county, or municipality thereof as defined in section 386.020;
- 24 (5) "Gas utility plant projects" ~~may~~ **shall** consist only of the following:
- 25 (a) Mains, valves, service lines, regulator stations, vaults, and other pipeline system
26 components installed to comply with state or federal safety requirements as replacements for
27 existing facilities that have worn out or are in deteriorated condition **or that can no longer be**
28 **installed under currently applicable safety requirements or any cast iron or steel facilities**
29 **including any connected or associated facilities that, regardless of their material, age, or**
30 **condition, are replaced as part of a qualifying replacement project in a manner that adds**
31 **no incremental cost to a project compared to tying into or reusing existing facilities;**
- 32 (b) Main relining projects, service line insertion projects, joint encapsulation projects,
33 and other similar projects extending the useful life or enhancing the integrity of pipeline system
34 components undertaken to comply with state or federal safety requirements; and
- 35 (c) Facilities relocations required due to construction or improvement of a highway,
36 road, street, public way, or other public work by or on behalf of the United States, this state, a
37 political subdivision of this state, or another entity having the power of eminent domain provided
38 that the costs related to such projects have not been reimbursed to the gas corporation;
- 39 (6) "ISRS", infrastructure system replacement surcharge;
- 40 (7) "ISRS costs", depreciation expense and property taxes that will be due within twelve
41 months of the ISRS filing **associated with eligible system replacements less annual**
42 **depreciation expenses and property taxes associated with any related facility retirements;**

43 (8) "ISRS revenues", revenues produced through an ISRS exclusive of revenues from
44 all other rates and charges.

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

16 2. The commission shall not approve an ISRS for any gas corporation that has not had
17 a general rate proceeding decided or dismissed by issuance of a commission order within the past
18 three years, unless the gas corporation has filed for or is the subject of a new general rate
19 proceeding.

20 3. In no event shall a gas corporation collect an ISRS for a period exceeding three years
21 unless the gas corporation has filed for or is the subject of a new general rate proceeding;
22 provided that the ISRS may be collected until the effective date of new rate schedules established
23 as a result of the new general rate proceeding, or until the subject general rate proceeding is
24 otherwise decided or dismissed by issuance of a commission order without new rates being
25 established.

26 **4. In order for a gas corporation to file a petition with the commission to establish**
27 **or change an ISRS, such corporation shall, by July 1, 2021, develop and file with the**
28 **commission a pre-qualification process for contractors seeking to participate in competitive**
29 **bidding to install ISRS-eligible gas utility plant projects. Under the pre-qualification**
30 **process, the gas corporation may specify certain eligibility requirements typically accepted**
31 **by the industry, including but not limited to, experience, performance criteria, safety**
32 **policies, and insurance or indemnification requirements to be met by any contractor**
33 **seeking to participate in competitive bidding to install ISRS-eligible gas utility plant**
34 **projects. Contractors that meet the pre-qualification criteria set by the gas corporation**

35 shall be eligible to participate in the competitive bidding process for installing ISRS-
36 eligible gas utility plant projects, with the winning bid awarded to the contractor making
37 the overall lowest and best bid, as defined in subsection 2 of section 34.010. The gas
38 corporation shall file, by January 1, 2022, a verified statement with the commission
39 confirming that it has in place a pre-qualification process for the competitive bidding of
40 ISRS-eligible gas utility plant projects, and that such process conforms with the
41 requirements of this section. The commission shall have the authority to verify the
42 statement to ensure compliance with this section. After January 1, 2022, the gas
43 corporation shall submit with each petition filing to establish or change an ISRS a verified
44 statement confirming that it is using a competitive bidding process for no less than twenty-
45 five percent of the combined external installation expenditures made by the gas
46 corporation's operating units in Missouri for installing ISRS-eligible gas utility plant
47 projects, and that such process conforms with the requirements set forth in this section.
48 The commission shall have the authority to verify the statement to ensure compliance with
49 this section. Nothing in this section shall be construed as requiring any gas corporation to
50 use a pre-qualified contractor or competitive bidding process in the case of an emergency
51 project, or to terminate any existing contract with a contractor prior to its expiration;
52 provided however, that the use of any preexisting contract for the installation of ISRS-
53 eligible gas utility plant projects shall not qualify as fulfilling the twenty-five percent
54 requirement set forth in this section beyond December 31, 2022. For contractors not
55 qualifying through the competitive bid process, the gas corporation, upon request from the
56 contractor, shall provide information from the process in which the contractor can be
57 informed as to how to be better positioned to qualify for such bid opportunities in the
58 future.

59 5. By December 31, 2023, and annually thereafter, the commission shall submit a
60 report to the general assembly on the effects of subsection 4 of this section, including gas
61 corporation compliance, potential legislative action regarding subsection 4 of this section,
62 the costs of installing ISRS-eligible gas utility plant projects prior to the implementation
63 of subsection 4 of this section compared to after the implementation of subsection 4 of this
64 section, and any other information regarding the processes established under subsection
65 4 of this section that the commission deems necessary.

393.1015. 1. (1) At the time that a gas corporation files a petition with the commission
2 seeking to establish or change an ISRS, it shall submit proposed ISRS rate schedules and its
3 supporting documentation regarding the calculation of the proposed ISRS with the petition, and
4 shall serve the office of the public counsel with a copy of its petition, its proposed rate schedules,
5 and its supporting documentation.

6 (2) Upon the filing of a petition, and any associated rate schedules, seeking to establish
7 or change an ISRS, the commission shall publish notice of the filing.

8 2. (1) When a petition, along with any associated proposed rate schedules, is filed
9 pursuant to the provisions of sections 393.1009 to 393.1015, the commission shall conduct an
10 examination of the proposed ISRS.

11 (2) The staff of the commission may examine information of the gas corporation to
12 confirm that the underlying costs are in accordance with the provisions of sections 393.1009 to
13 393.1015, and to confirm proper calculation of the proposed charge, and may submit a report
14 regarding its examination to the commission not later than [~~sixty~~] **ninety** days after the petition
15 is filed. No other revenue requirement or ratemaking issues may be examined in consideration
16 of the petition or associated proposed rate schedules filed pursuant to the provisions of sections
17 393.1009 to 393.1015.

18 (3) The commission may hold a hearing on the petition and any associated rate schedules
19 and shall issue an order to become effective not later than one hundred [~~twenty~~] **eighty** days after
20 the petition is filed.

21 (4) If the commission finds that a petition complies with the requirements of sections
22 393.1009 to 393.1015, the commission shall enter an order authorizing the corporation to impose
23 an ISRS that is sufficient to recover appropriate pretax revenue, as determined by the
24 commission pursuant to the provisions of sections 393.1009 to 393.1015.

25 3. A gas corporation may effectuate a change in its rate pursuant to the provisions of this
26 section no more often than two times every twelve months.

27 4. In determining the appropriate pretax revenue, the commission shall consider only the
28 following factors:

29 (1) The current state, federal, and local income tax or excise rates;

30 (2) The gas corporation's actual regulatory capital structure as determined during the
31 most recent general rate proceeding of the gas corporation;

32 (3) The actual cost rates for the gas corporation's debt and preferred stock as determined
33 during the most recent general rate proceeding of the gas corporation;

34 (4) The gas corporation's cost of common equity as determined during the most recent
35 general rate proceeding of the gas corporation;

36 (5) The current property tax rate or rates applicable to the eligible infrastructure system
37 replacements;

38 (6) The current depreciation rates applicable to the eligible infrastructure system
39 replacements; and

40 (7) In the event information pursuant to subdivisions (2), (3), and (4) of this subsection
41 is unavailable and the commission is not provided with such information on an agreed-upon

42 basis, the commission shall refer to the testimony submitted during the most recent general rate
43 proceeding of the gas corporation and use, in lieu of any such unavailable information, the
44 recommended capital structure, recommended cost rates for debt and preferred stock, and
45 recommended cost of common equity that would produce the average weighted cost of capital
46 based upon the various recommendations contained in such testimony.

47 5. (1) The monthly ISRS charge may be calculated based on a reasonable estimate of
48 billing units in the period in which the charge will be in effect, which shall be conclusively
49 established by dividing the appropriate pretax revenues by the customer numbers reported by the
50 gas corporation in the annual report it most recently filed with the commission pursuant to
51 subdivision (6) of section 393.140, and then further dividing this quotient by twelve. Provided,
52 however, that the monthly ISRS may vary according to customer class and may be calculated
53 based on customer numbers as determined during the most recent general rate proceeding of the
54 gas corporation so long as the monthly ISRS for each customer class maintains a proportional
55 relationship equivalent to the proportional relationship of the monthly customer charge for each
56 customer class.

57 (2) At the end of each twelve-month calendar period the ISRS is in effect, the gas
58 corporation shall reconcile the differences between the revenues resulting from an ISRS and the
59 appropriate pretax revenues as found by the commission for that period and shall submit the
60 reconciliation and a proposed ISRS adjustment to the commission for approval to recover or
61 refund the difference, as appropriate, through adjustments of an ISRS charge.

62 6. (1) A gas corporation that has implemented an ISRS pursuant to the provisions of
63 sections 393.1009 to 393.1015 shall file revised rate schedules to reset the ISRS to zero when
64 new base rates and charges become effective for the gas corporation following a commission
65 order establishing customer rates in a general rate proceeding that incorporates in the utility's
66 base rates subject to subsections 8 and 9 of this section eligible costs previously reflected in an
67 ISRS.

68 (2) Upon the inclusion in a gas corporation's base rates subject to subsections 8 and 9
69 of this section of eligible costs previously reflected in an ISRS, the gas corporation shall
70 immediately thereafter reconcile any previously unreconciled ISRS revenues as necessary to
71 ensure that revenues resulting from the ISRS match as closely as possible the appropriate pretax
72 revenues as found by the commission for that period.

73 7. A gas corporation's filing of a petition or change to an ISRS pursuant to the provisions
74 of sections 393.1009 to 393.1015 shall not be considered a request for a general increase in the
75 gas corporation's base rates and charges.

76 8. Commission approval of a petition, and any associated rate schedules, to establish or
77 change an ISRS pursuant to the provisions of sections 393.1009 to 393.1015 shall in no way be

78 binding upon the commission in determining the ratemaking treatment to be applied to eligible
79 infrastructure system replacements during a subsequent general rate proceeding when the
80 commission may undertake to review the prudence of such costs. In the event the commission
81 disallows, during a subsequent general rate proceeding, recovery of costs associated with eligible
82 infrastructure system replacements previously included in an ISRS, the gas corporation shall
83 offset its ISRS in the future as necessary to recognize and account for any such overcollections.

84 9. Nothing in this section shall be construed as limiting the authority of the commission
85 to review and consider infrastructure system replacement costs along with other costs during any
86 general rate proceeding of any gas corporation.

87 10. Nothing contained in sections 393.1009 to 393.1015 shall be construed to impair in
88 any way the authority of the commission to review the reasonableness of the rates or charges of
89 a gas corporation, including review of the prudence of eligible infrastructure system
90 replacements made by a gas corporation, pursuant to the provisions of section 386.390.

91 11. The commission shall have authority to promulgate rules for the implementation of
92 sections 393.1009 to 393.1015, but only to the extent such rules are consistent with, and do not
93 delay the implementation of, the provisions of sections 393.1009 to 393.1015. Any rule or
94 portion of a rule, as that term is defined in section 536.010, that is created under the authority
95 delegated in this section shall become effective only if it complies with and is subject to all of
96 the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536
97 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter
98 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held
99 unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after
100 August 28, 2003, shall be invalid and void.

101 **12. Any gas corporation whose ISRS is found by a court of competent jurisdiction**
102 **to include unlawful and inappropriate charges shall refund every current customer of the**
103 **gas corporation who paid such charges, before the gas corporation can file for a new ISRS.**

104 **13. The provisions of sections 393.1009 to 393.1015 shall expire on August 28, 2029.**
620.2459. Pursuant to section 23.253 of the Missouri sunset act:

2 (1) The provisions of the ~~[new]~~ program authorized under sections 620.2450, 620.2451,
3 620.2452, 620.2453, 620.2454, 620.2455, 620.2456, 620.2457, and 620.2458 shall sunset
4 ~~[automatically three years after August 28, 2018]~~ **on June 30, 2027**, unless reauthorized by an
5 act of the general assembly; and

6 (2) If such program is reauthorized, the program authorized under sections 620.2450,
7 620.2451, 620.2452, 620.2453, 620.2454, 620.2455, 620.2456, 620.2457, and 620.2458 shall
8 sunset automatically six years after the effective date of the reauthorization of sections 620.2450,
9 620.2451, 620.2452, 620.2453, 620.2454, 620.2455, 620.2456, 620.2457, and 620.2458; and

10 (3) Sections 620.2450, 620.2451, 620.2452, 620.2453, 620.2454, 620.2455, 620.2456,
11 620.2457, and 620.2458 shall terminate on September first of the calendar year immediately
12 following the calendar year in which the program authorized under sections 620.2450, 620.2451,
13 620.2452, 620.2453, 620.2454, 620.2455, 620.2456, 620.2457, and 620.2458 is sunset.

**640.141. Sections 640.141 to 640.145 shall be known as the "Water Safety and
2 Security Act". For the purposes of these sections, the term "community water system"
3 shall mean a public water system as defined in section 640.102 that serves at least fifteen
4 service connections and is operated on a year-round basis or regularly serves at least
5 twenty-five residents on a year-round basis.**

**640.142. 1. Within twelve months of the effective date of this section, each
2 community water system shall create a plan that establishes policies and procedures for
3 identifying and mitigating cyber risk. The plan shall include risk assessments and
4 implementation of appropriate controls to mitigate identified cyber risks.**

**5 2. Community water systems that do not use an internet-connected control system
6 are exempt from the provisions of this section.**

**7 3. The provisions of this section shall not apply to any state parks, cities with a
8 population of more than thirty thousand inhabitants, a county with a charter form of
9 government and with more than six hundred thousand but fewer than seven hundred
10 thousand inhabitants, a county with a charter form of government and with more than
11 nine hundred fifty thousand inhabitants, or a public service commission regulated utility
12 with more than thirty thousand customers.**

**640.144. 1. All community water systems shall be required to create a valve
2 inspection program that includes:**

3 (1) Inspection of all valves every ten years;

4 (2) Scheduled repair or replacement of broken valves; and

**5 (3) Within five years of the effective date of this section, identification of each shut
6 off valve location using a geographic information system or an alternative physical
7 mapping system that accurately identifies the location of each valve.**

**8 2. All community water systems shall be required to create a hydrant inspection
9 program that includes:**

10 (1) Annual testing of every hydrant in the community water system;

11 (2) Scheduled repair or replacement of broken hydrants;

12 (3) A plan to flush every hydrant and dead-end main;

13 (4) Maintenance of records of inspections, tests, and flushings for six years; and

14 **(5) Within five years of the effective date of this section, identification of each**
15 **hydrant location using a geographic information system or an alternative physical**
16 **mapping system that accurately identifies the location of each hydrant.**

17 **3. The provisions of this section shall not apply to any state parks, cities with a**
18 **population of more than thirty thousand inhabitants, a county with a charter form of**
19 **government and with more than six hundred thousand but fewer than seven hundred**
20 **thousand inhabitants, a county with a charter form of government and with more than**
21 **nine hundred fifty thousand inhabitants, or a public service commission regulated utility**
22 **with more than thirty thousand customers.**

640.145. 1. Community water systems shall submit a report upon request of the
2 **department of natural resources that shall certify compliance with all regulations**
3 **regarding:**

4 **(1) Water quality sampling, testing, and reporting;**

5 **(2) Hydrant and valve inspections under section 640.144; and**

6 **(3) Cyber security plans and policies, if required under section 640.142.**

7 **2. The provisions of this section shall not apply to any state parks, cities with a**
8 **population of more than thirty thousand inhabitants, a county with a charter form of**
9 **government and with more than six hundred thousand but fewer than seven hundred**
10 **thousand inhabitants, a county with a charter form of government and with more than**
11 **nine hundred fifty thousand inhabitants, or a public service commission regulated utility**
12 **with more than thirty thousand customers.**

701.200. 1. Subject to appropriations, each school district, as such term is defined
2 **in section 160.011, may test a sample of a source of potable water in a public school**
3 **building in that district serving students under first grade and constructed before 1996 for**
4 **lead contamination in accordance with guidance provided by the department of health and**
5 **senior services. The school district may submit the samples to a department-approved**
6 **laboratory for analysis for lead and provide the written sampling results to the department**
7 **within seven days of receipt.**

8 **2. The department shall develop guidance for schools in collecting and testing first-**
9 **draw samples of potable water. The department shall develop and make publicly available**
10 **a list of approved laboratories for lead analysis.**

11 **3. If any of the samples taken in the building exceed current standards for parts per**
12 **billion of lead established by the United States Environmental Protection Agency, the**
13 **school district shall promptly provide individual notification of the sampling results, by**
14 **written or electronic communication, to the parents or legal guardians of all enrolled**
15 **students and include the following information: the corresponding sampling location**

16 within the building and the U.S. Environmental Protection Agency's website for
17 information about lead in drinking water. If any of the samples taken in the building are
18 at or below five parts per billion, notification may be made as provided in this subsection
19 or by posting on the school's website.

20 4. The department may promulgate rules and regulations necessary to implement
21 the provisions of this section. Any rule or portion of a rule, as that term is defined in
22 section 536.010, that is created under the authority delegated in this section shall become
23 effective only if it complies with and is subject to all of the provisions of chapter 536 and,
24 if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of
25 the powers vested with the general assembly pursuant to chapter 536 to review, to delay
26 the effective date, or to disapprove and annul a rule are subsequently held
27 unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted
28 after August 28, 2020, shall be invalid and void.

29 5. As used in this section, the term "source of potable water" shall mean the point
30 at which nonbottled water that may be ingested by children or used for food preparation
31 exits any tap, faucet, drinking fountain, wash basin in a classroom occupied by children
32 or students under first grade, or similar point of use; provided, that all bathroom sinks and
33 wash basins used by janitorial staff are excluded from this definition.

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