

SECOND REGULAR SESSION

HOUSE BILL NO. 2577

100TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE MILLER.

5590H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal section 393.1075, RSMo, and to enact in lieu thereof one new section relating to the Missouri energy efficiency investment act.

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Section A. Section 393.1075, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 393.1075, to read as follows: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

(4) "Energy efficiency", measures that reduce the amount of electricity **or gas** 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 **or gas** under certain specified conditions;

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

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

23 (1) Provide timely cost recovery for utilities;

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

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

29 4. The commission shall permit electric **or gas** corporations to implement commission-
30 approved demand-side programs proposed pursuant to this section with a goal of achieving all
31 cost-effective demand-side savings. Recovery for such programs shall not be permitted unless
32 the programs are approved by the commission, result in energy or demand savings and are
33 beneficial to all customers in the customer class in which the programs are proposed, regardless
34 of whether the programs are utilized by all customers. The commission shall consider the total
35 resource cost test a preferred cost-effectiveness test. Programs targeted to low-income customers
36 or general education campaigns do not need to meet a cost-effectiveness test, so long as the
37 commission determines that the program or campaign is in the public interest. Nothing herein
38 shall preclude the approval of demand-side programs that do not meet the test if the costs of the
39 program above the level determined to be cost-effective are funded by the customers
40 participating in the program or through tax or other governmental credits or incentives
41 specifically designed for that purpose.

42 5. To comply with this section the commission may develop cost recovery mechanisms
43 to further encourage investments in demand-side programs including, in combination and
44 without limitation: capitalization of investments in and expenditures for demand-side programs,
45 rate design modifications, accelerated depreciation on demand-side investments, and allowing
46 the utility to retain a portion of the net benefits of a demand-side program for its shareholders.
47 In setting rates the commission shall fairly apportion the costs and benefits of demand-side
48 programs to each customer class except as provided for in subsection 6 of this section. Prior to
49 approving a rate design modification associated with demand-side cost recovery, the commission
50 shall conclude a docket studying the effects thereof and promulgate an appropriate rule.

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

54 7. Provided that the customer has notified the electric **or gas** corporation that the
55 customer elects not to participate in demand-side measures offered by an electrical **or gas**
56 corporation, none of the costs of demand-side measures of an electric **or gas** corporation offered
57 under this section or by any other authority, and no other charges implemented in accordance
58 with this section, shall be assigned to any account of any customer, including its affiliates and
59 subsidiaries, meeting one or more of the following criteria:

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

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

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

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

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

74 10. Customers electing not to participate in an electric **or gas** corporation's demand-side
75 programs under this section shall still be allowed to participate in interruptible or curtailable rate
76 schedules or tariffs offered by the electric **or gas** corporation.

77 11. The commission shall provide oversight and may adopt rules and procedures and
78 approve corporation-specific settlements and tariff provisions, independent evaluation of
79 demand-side programs, as necessary, to ensure that electric **or gas** corporations can achieve the
80 goals of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that
81 is created under the authority delegated in this section shall become effective only if it complies
82 with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028.
83 This section and chapter 536 are nonseverable and if any of the powers vested with the general
84 assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and
85 annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and
86 any rule proposed or adopted after August 28, 2009, shall be invalid and void.

87 12. Each electric **or gas** corporation shall submit an annual report to the commission
88 describing the demand-side programs implemented by the utility in the previous year. The report
89 shall document program expenditures, including incentive payments, peak demand and energy
90 savings impacts and the techniques used to estimate those impacts, avoided costs and the
91 techniques used to estimate those costs, the estimated cost-effectiveness of the demand-side
92 programs, and the net economic benefits of the demand-side programs.

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

95 14. The commission shall develop rules that provide for disclosure of participants in all
96 demand-side programs offered by electrical corporations under this section when such programs
97 provide monetary incentives to the customer. The disclosure required by this subsection may
98 include, but not be limited to, the following: the name of the participant, or the names of the
99 principals if for a company, the property address, and the amount of the monetary incentive
100 received.

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