

SECOND REGULAR SESSION

HOUSE BILL NO. 2167

102ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE O'DONNELL.

4608H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 386.050, 386.480, 386.510, 386.700, 386.710, and 393.150, RSMo, and to enact in lieu thereof thirteen new sections relating to the public service commission.

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

Section A. Sections 386.050, 386.480, 386.510, 386.700, 386.710, and 393.150, RSMo, are repealed and thirteen new sections enacted in lieu thereof, to be known as sections 386.050, 386.480, 386.510, 386.700, 386.710, 393.150, 393.1800, 393.1805, 393.1810, 393.1820, 393.1825, 393.1830, and 393.1835, to read as follows:

386.050. The commission shall consist of five members who shall be appointed by the governor, with the advice and consent of the senate, and one of whom shall be designated by the governor to be chair of the commission. Each commissioner, at the time of the commissioner's appointment and qualification, shall be a resident of the state of Missouri, and shall have resided in the state for a period of at least five years next preceding the appointment and qualification, and shall also be a qualified voter therein and not less than twenty-five years of age. **There shall be no more than one commission member from any congressional district.** Upon the expiration of each of the terms of office of the first commissioners, the term of office of each commissioner thereafter appointed shall be six years from the time of the commissioner's appointment and qualification and until his successor shall qualify. Vacancies in the commission shall be filled by the governor for the unexpired term.

386.480. **1.** No information furnished to the commission by a corporation, person or public utility, except such matters as are specifically required to be open to public inspection by the provisions of this chapter, or chapter 610, shall be open to public inspection or made

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.

4 public except on order of the commission, or by the commission or a commissioner in the
5 course of a hearing or proceeding. The public counsel shall have full and complete access to
6 public service commission files and records. Any officer or employee of the commission or
7 the public counsel or any employee of the public counsel who, in violation of the provisions
8 of this section, divulges any such information shall be guilty of a misdemeanor.

9 **2. Any party to a proceeding before the commission may request the commission**
10 **adopt protections more restrictive than afforded by the commission's rules that**
11 **otherwise govern the protection of certain information with such restrictions to apply to**
12 **information, the disclosure of which could cause undue risk to critical infrastructure**
13 **including, but not limited to, the bulk power system or other critical facilities and**
14 **cybersecurity measures. These protections may include the requirement that parties**
15 **view the materials either on-site at the producing party's location or through an online**
16 **portal without taking copies of the material. The restrictions may also include a**
17 **limitation that only commission staff and the office of the public counsel be granted**
18 **access to the materials. The commission shall grant a party's request when necessary to**
19 **comply with federal law or regulation. If federal law or regulation does not require**
20 **protection of the information, the commission shall employ the following balancing test**
21 **to determine whether protection from disclosure is warranted:**

22 **(1) Whether disclosure will significantly aid the commission in fulfilling its**
23 **functions;**

24 **(2) The harm or benefit which disclosure will cause to the public interest;**

25 **(3) The harm which disclosure will cause to the public entity; and**

26 **(4) Any alternative to disclosure that will serve the public interest and protect**
27 **the public utility.**

386.510. 1. With respect to commission orders or decisions issued on and after July
2 1, 2011, within thirty days after the application for a rehearing is denied, or, if the application
3 is granted, then within thirty days after the rendition of the decision on rehearing, the
4 applicant may file a notice of appeal with the appellate court with the territorial jurisdiction
5 over the county where the hearing was held or in which the commission has its principal
6 office for the purpose of having the reasonableness or lawfulness of the original order or
7 decision or the order or decision on rehearing inquired into or determined, which shall also be
8 served on the commission and the parties to the commission proceeding in accordance with
9 section 386.515, **provided that the public counsel shall not be permitted to intervene or**
10 **participate in the appeal unless expressly authorized in writing to do so by the director**
11 **of the department to which the office of the public counsel reports in accordance with**
12 **the terms of subsection 2 of this section.** Except with respect to a stay or suspension
13 pursuant to subsection 1 of section 386.520, no new or additional evidence may be introduced

14 in the appellate court but the cause shall be heard by the court without the intervention of a
15 jury on the evidence and exhibits introduced before the commission and certified to by it.
16 The notice of appeal shall include the appellant's application for rehearing, a copy of the
17 reconciliation required by subsection 4 of section 386.420, a concise statement of the issues
18 being appealed, a full and complete list of the parties to the commission proceeding, all
19 necessary filing fees, and any other information specified by the rules of the court. Unless
20 otherwise ordered by the court of appeals, the commission shall, within thirty days of the
21 filing of the notice of appeal, certify its record in the case to the court of appeals. The
22 commission and each party to the action or proceeding before the commission shall have the
23 right to intervene and participate fully in the review proceedings, **provided that the public**
24 **counsel shall not be permitted to file a notice of appeal unless expressly authorized in**
25 **writing to do so by the director of the department to which the office of the public**
26 **counsel reports in accordance with the terms of subsection 2 of this section.** Upon the
27 submission of the case to the court of appeals, the court of appeals shall render its opinion
28 either affirming or setting aside, in whole or in part, the order or decision of the commission
29 under review. In case the order or decision is reversed by reason of the commission failing to
30 receive testimony properly proffered, the court shall remand the cause to the commission,
31 with instructions to receive the testimony so proffered and rejected, and enter a new order or
32 render a new decision based upon the evidence theretofore taken, and such as it is directed to
33 receive. The court may, in its discretion, remand any cause which is reversed by it to the
34 commission for further action. No court in this state, except the supreme court or the court of
35 appeals, shall have jurisdiction or authority to review, reverse, correct or annul any order or
36 decision of the commission or to suspend or delay the executing or operation thereof, or to
37 enjoin, restrain or interfere with the commission in the performance of its official duties. The
38 appellate courts of this state shall always be deemed open for the trial of suits brought to
39 review the orders and decisions of the commission as provided in the public service
40 commission law and the same shall where necessary be tried and determined as suits in
41 equity.

42 **2. Any notice of appeal by public counsel or request by public counsel to**
43 **participate in any appeal shall be accompanied by a communication in writing signed by**
44 **the department director of the department to which the office of the public counsel**
45 **reports granting the public counsel authorization to file the subject notice of appeal or**
46 **request to participate and certifying that such appeal or participation by the public**
47 **counsel is reasonably likely to be successful on the merits, unlikely to result in higher**
48 **utility service costs for the public in the future, and is a good and efficient use of scarce**
49 **government resources. If no such written communication accompanies any notice of**
50 **appeal by public counsel or any request by public counsel to participate in any appeal,**

51 **the court shall reject the public counsel's notice of appeal or deny public counsel's**
52 **request to participate.**

386.700. The [~~director of the department of economic development shall appoint a~~
2 ~~public counsel to serve at the pleasure of the director of the department]~~ **governor shall**
3 **appoint a public counsel with the advice and consent of the senate.** The public counsel
4 shall be an attorney at law licensed to practice law in this state and whose salary shall be fixed
5 by the [~~department]~~ **director of the department to which the office of the public counsel**
6 **reports** within the appropriation made therefor.

386.710. 1. The public counsel shall have the following powers and duties:

2 (1) He shall employ a staff or hire on a contract basis such employees and experts as
3 are necessary to carry out the purposes and responsibilities of his office, and shall set their
4 compensation within the appropriation made for that purpose;

5 (2) He may represent and protect the interests of the public in any proceeding before
6 or appeal from the public service commission **if, in the case of an appeal, he has received**
7 **authorization under subsection 1 of section 386.510;**

8 (3) He shall have discretion to represent or refrain from representing the public in any
9 proceeding. He shall consider in exercising his discretion the importance and the extent of
10 the public interest involved and whether that interest would be adequately represented
11 without the action of his office. If the public counsel determines that there are conflicting
12 public interests involved in a particular matter, he may choose to represent one such interest
13 based upon the considerations of this section, to represent no interest in that matter, or to
14 represent one interest and certify to the director of the department of economic development
15 that there is a significant public interest which he cannot represent without creating a conflict
16 of interest and which will not be protected by any party to the proceeding. The director of the
17 department shall select an attorney, to be paid from funds appropriated for this purpose, to
18 represent that segment of the public certified to him by the public counsel as unrepresented.
19 Nothing in this section shall be construed to limit the right of any person, firm or corporation
20 specified in subsection 1 of section 386.390 to petition or make complaint to the commission
21 or otherwise intervene in proceedings or other matters before the commission.

22 2. **In representing the interests of the public, the public counsel shall balance:**

23 (1) **The costs and rate impacts to all classes of current and future public utility**
24 **customers;**

25 (2) **Promoting safe, resilient, and reliable public utility service;**

26 (3) **Ensuring the public utility has access to capital upon reasonable cost and**
27 **terms; and**

28 (4) **Promoting economic development and job creation within the state.**

29 **3.** The public counsel shall be served with all proposed tariffs, initial pleadings, and
30 applications, in all proceedings before the public service commission, and shall be served
31 with a copy of all orders of the commission.

32 ~~[3. Nothing in sections 386.071, 386.150, 386.155, 386.170, 386.200, 386.330,~~
33 ~~386.360, 386.390, 386.400, 386.410, 386.420, 386.440, 386.450, 386.480, 386.500, 386.530,~~
34 ~~386.540, 386.600, 386.700 and 386.710, shall be construed or interpreted to mean that the~~
35 ~~public counsel shall not have the right to appeal any and all orders of the public service~~
36 ~~commission to the courts which right of appeal exists and has existed since the time of~~
37 ~~transfer as provided in section 386.500.]~~

38 **4. [He] The public counsel** shall have all powers necessary or proper to carry out the
39 duties specified in this section **but shall not have the power to initiate or participate in any**
40 **appeal of a decision or order of the commission without obtaining express authorization**
41 **from the director of the department to which the office of the public counsel reports as**
42 **provided in section 386.510.**

393.150. 1. Whenever there shall be filed with the commission by any gas
2 corporation, electrical corporation, water corporation or sewer corporation any schedule
3 stating a new rate or charge, or any new form of contract or agreement, or any new rule,
4 regulation or practice relating to any rate, charge or service or to any general privilege or
5 facility, the commission shall have, and it is hereby given, authority, either upon complaint or
6 upon its own initiative without complaint, at once, and if it so orders without answer or other
7 formal pleading by the interested gas corporation, electrical corporation, water corporation or
8 sewer corporation, but upon reasonable notice, to enter upon a hearing concerning the
9 propriety of such rate, charge, form of contract or agreement, rule, regulation or practice, and
10 pending such hearing and the decision thereon, the commission upon filing with such
11 schedule, and delivering to the gas corporation, electrical corporation, water corporation or
12 sewer corporation affected thereby, a statement in writing of its reasons for such suspension,
13 may suspend the operation of such schedule and defer the use of such rate, charge, form of
14 contract or agreement, rule, regulation or practice, but not for a longer period than one
15 hundred and twenty days beyond the time when such rate, charge, form of contract or
16 agreement, rule, regulation or practice would otherwise go into effect; and after full hearing,
17 whether completed before or after the rate, charge, form of contract or agreement, rule,
18 regulation or practice goes into effect, the commission may make such order in reference to
19 such rate, charge, form of contract or agreement, rule, regulation or practice as would be
20 proper in a proceeding initiated after the rate, charge, form of contract or agreement, rule,
21 regulation or practice had become effective.

22 2. If any such hearing cannot be concluded within the period of suspension, as above
23 stated, the commission may, in its discretion, extend the time of suspension for a further

24 period not exceeding six months. At any hearing involving a rate sought to be increased, the
25 burden of proof to show that the increased rate or proposed increased rate is just and
26 reasonable shall be upon the gas corporation, electrical corporation, water corporation or
27 sewer corporation, and the commission shall give to the hearing and decision of such
28 questions preference over all other questions pending before it and decide the same as
29 speedily as possible.

30 **3. (1) The test year for proceedings under this section shall be a future year**
31 **utilizing a twelve-month period ending no later than twenty four months after the filing**
32 **of schedules stating new base rates. New base rates shall not go into effect before the**
33 **first day of the future test year. For purposes of establishing the revenue requirement**
34 **for the future test year, the commission shall utilize a thirteen-month average projected**
35 **rate base, a thirteen-month average of the public utility's projected capital structure, a**
36 **thirteen-month average of the public utility's projected cost of debt, projected revenues,**
37 **and projected expenses. The thirteen-month average shall be calculated using the**
38 **projected month-end balances from the month new base rates are projected to be**
39 **effective and the next twelve consecutive projected month-end balances.**

40 **(2) Notwithstanding the foregoing provisions of this subsection, for a public**
41 **utility that is also an electrical corporation, the commission shall not utilize a projected**
42 **rate base but shall instead utilize actual rate base for all rate base components as of the**
43 **end of a historical test year with a true-up, except that for inventory, customer advances**
44 **and deposits, and prepayments a thirteen-month average ending as of the true-up cutoff**
45 **date shall be used. An electrical corporation may estimate the rate base as of the true-**
46 **up cutoff date at the time it files its application. All other revenue requirement items**
47 **shall be projected as provided for in subdivision (1) of this subsection. The true-up**
48 **period selected by the electrical corporation shall be used to set base rates in**
49 **proceedings under this section.**

50 **(3) With respect to public utilities that are not also an electrical corporation,**
51 **within sixty days of the end of the future test year such public utility shall update its**
52 **base rates that were approved by the commission in its report and order issued in the**
53 **proceeding under this section to reflect the total rate base at the end of the future test**
54 **year.**

55 **(4) The test year selected by the public utility shall be used for setting base rates**
56 **in proceedings under this section. The public counsel, the staff of the commission, and**
57 **intervenors in the case may propose adjustments or other changes to the revenue**
58 **requirement of the test year selected by the public utility but shall not present**
59 **alternative base rates based on a test year different from that selected by the utility.**

60 **4. In any proceeding under this section, the commission shall evaluate such**
61 **public utility on a stand-alone basis and, for purposes of establishing revenue**
62 **requirement, utilize such public utility's test year capital structure, without regard to**
63 **the capital structure or investments of any other entities with which such public utility**
64 **may be affiliated, unless the commission finds based on evidence in the record that the**
65 **public utility's capital structure is imprudent. The capital structure shall include the**
66 **relative proportions of common equity, long-term debt, and preferred stock consistent**
67 **with the public utility's test year.**

68 **5. For purposes of this section, the following terms shall mean:**

69 **(1) "Base rates", rates or charges for public utility service other than rates or**
70 **charges under any rate adjustment mechanism including, but not limited to, those**
71 **approved under the provisions of sections 386.266, 393.1003, 393.1012, 393.1030,**
72 **393.1075, and 393.1506;**

73 **(2) "Revenue requirement", the amount of retail revenues from base rates**
74 **charged to retail customers for public utility service needed for a public utility to cover**
75 **its cost to provide utility service including reasonable and necessary expenses, prudent**
76 **investments, and the cost of capital;**

77 **(3) "True-up", an update of an electrical corporation's rate base as of the true-**
78 **up cutoff date as compared to the last day of the test year utilized by the electrical**
79 **corporation when schedules proposing new base rates were filed;**

80 **(4) "True-up cutoff date", a date selected by the electrical corporation that is not**
81 **more than one hundred eighty-five days after the electrical corporation's filing of**
82 **schedules stating new base rates.**

393.1800. 1. Sections 393.1800 to 393.1835 shall be known as the "Streamlined
2 **Base Rate Procedures Act".**

3 **2. As used in sections 393.1800 to 393.1835, the following terms shall mean:**

4 **(1) "Base rate case", a proceeding initiated by a public utility to adjust base**
5 **rates charged to customers for public utility service, but shall not include a proceeding**
6 **for the periodic adjustment of rates charged under any rate adjustment mechanism**
7 **including, but not limited to, those approved under the provisions of sections 386.266,**
8 **393.1003, 393.1012, 393.1030, 393.1075, and 393.1506;**

9 **(2) "Base rates", rates or charges for public utility service other than rates or**
10 **charges under any rate adjustment mechanism including, but not limited to, those**
11 **approved under the provisions of sections 386.266, 393.1003, 393.1012, 393.1030,**
12 **393.1075, and 393.1506;**

13 **(3) "Capital structure", the proportion of elements of the long-term capital**
14 **employed to finance public utility operations, typically comprised of common equity,**

15 long-term debt and preferred equity, and used in determining the weighted average cost
16 of capital for setting base rates;

17 (4) "Commission", the public service commission established under section
18 386.040;

19 (5) "Commission staff", all personnel employed by the commission whether on a
20 permanent or contractual basis except commissioners; commissioner support staff,
21 including technical advisory staff; personnel in the secretary's office; and personnel in
22 the general counsel's office. Employees in the staff counsel's office are members of the
23 commission staff;

24 (6) "Cross-rebuttal testimony", shall be filed only by the commission staff and
25 participating parties and limited to material that is responsive to another party's
26 rebuttal testimony;

27 (7) "Data request", an informal written request for documents or information
28 that may be transmitted directly between attorneys, agents, or members of the
29 commission, commission staff, public counsel, or other intervenors to a base rate
30 proceeding initiated under sections 393.1800 to 393.1835;

31 (8) "Direct testimony", all testimony and exhibits asserting and explaining the
32 entire case-in-chief of the public utility initiating a base rate proceeding under sections
33 393.1800 to 393.1835. Only the public utility initiating a base rate proceeding under
34 sections 393.1800 to 393.1835 shall be permitted to submit direct testimony with
35 accounting schedules demonstrating the revenue requirement;

36 (9) "Public utility", an electrical corporation, gas corporation, heating company,
37 sewer corporation, or water corporation, as those terms are defined in section 386.020,
38 that has filed an application under section 393.1805. The term shall not include an
39 electrical corporation as described in subsection 2 of section 393.110;

40 (10) "Rebuttal testimony", all testimony only from the commission staff and
41 participating parties which explains a party's acceptance, rejection, disagreement, or
42 alternative to the direct testimony. Rebuttal testimony positions regarding the revenue
43 requirement items shall be based on the accounting schedules and test year set forth in
44 the direct testimony. The revenue requirement impacts resulting from rebuttal
45 testimony positions shall be quantified by reference to the accounting schedules and test
46 year set forth in the direct testimony and shall be presented by commission staff and
47 participating parties as adjustments to the revenue requirement presented in the direct
48 testimony of the public utility initiating a base rate proceeding under sections 393.1800
49 to 393.1835;

50 (11) "Return on equity", the cost of the common equity component of the capital
51 structure, expressed as a percentage and used in determining the weighted average cost
52 of capital to use in setting base rates;

53 (12) "Revenue requirement", the amount of retail revenues from base rates
54 charged to retail customers for public utility service needed for a public utility to cover
55 its cost to provide utility service including reasonable and necessary expenses, prudent
56 investments, and the cost of capital;

57 (14) "Surrebuttal testimony", shall be filed only by the public utility and limited
58 to material that is responsive to another party's rebuttal or cross-rebuttal testimony.

393.1805. 1. A public utility may file an application to adjust its base rates
2 pursuant to the provisions of sections 393.1800 to 393.1835. An application under
3 sections 393.1800 to 393.1835 shall not be subject to the provisions of section 393.150
4 and sections 393.1800 to 393.1835 shall abrogate any inconsistent procedures set forth in
5 any other statute or regulations. The commission shall not reject an application for new
6 base rates on the basis that it is filed under sections 393.1800 to 393.1835.

7 2. The public utility's application shall include its direct testimony and responses
8 to the data requests, if any, created under subsection 1 of section 393.1810. The
9 application and direct testimony shall together include all information required by
10 commission rules 20 CSR 4240-2.060(1) and 20 CSR 4240-3.030 in effect on December
11 31, 2023.

12 3. (1) The test year for proceedings under sections 393.1800 to 393.1835 shall be
13 a future year utilizing a twelve-month period ending no later than twenty four months
14 after the filing of a rate application. New base rates shall not go into effect before the
15 first day of the future test year. For purposes of establishing the revenue requirement
16 for the future test year, the commission shall utilize a thirteen-month average projected
17 rate base, a thirteen-month average of the public utility's projected capital structure, a
18 thirteen-month average of the public utility's projected cost of debt, projected revenues,
19 and projected expenses. The thirteen-month average shall be calculated using the
20 projected month-end balances from the month new base rates are projected to be
21 effective and the next twelve consecutive projected month-end balances.

22 (2) Notwithstanding the foregoing provisions of this subsection, for a public
23 utility that is also an electrical corporation, the commission shall not utilize a projected
24 rate base but shall instead utilize actual rate base for all rate base components as of the
25 end of a historical test year with a true-up, except that for inventory, customer advances
26 and deposits, and prepayments a thirteen-month average ending as of the true-up cutoff
27 date shall be used. All other revenue requirement items shall be projected as provided
28 for in subdivision (1) of this subsection. For purposes of this section, "true-up" is an

29 update of an electrical corporation's rate base as of the "true-up cutoff date" as
30 hereinafter defined as compared to the last day of the test year utilized by the electrical
31 corporation when the case was initiated. An electrical corporation may estimate the
32 rate base as of the true-up cutoff date at the time it files its application. The "true-up
33 cutoff date" shall be a date selected by the electrical corporation that is not more than
34 one hundred ten days after the electrical corporation's filing of the application and one
35 hundred fifty days or more prior to the effective date of new base rates to be established
36 by the commission in proceedings under sections 393.1800 to 393.1835. The true-up
37 period selected by the electrical corporation shall be used to set base rates in
38 proceedings under sections 393.1800 to 393.1835.

39 (3) With respect to public utilities that are not also an electrical corporation,
40 within sixty days of the end of the future test year, such public utility shall update its
41 base rates that were approved by the commission in its final order issued in the
42 proceeding under sections 393.1800 to 393.1835 to reflect the total rate base at the end of
43 the future test year.

44 (4) The test year selected by the public utility shall be used for setting base rates
45 in proceedings under sections 393.1800 to 393.1835. The public counsel, the staff of the
46 commission, and intervenors in the case may propose adjustments or other changes to
47 the revenue requirement of the test year selected by the public utility but shall not
48 present alternative base rates based on a test year different from that selected by the
49 utility.

50 4. In any application filed by a public utility for new base rates, the commission
51 shall evaluate such public utility on a stand-alone basis and, for purposes of establishing
52 revenue requirement, utilize such public utility's test year capital structure without
53 regard to the capital structure or investments of any other entities with which such
54 public utility may be affiliated, unless the Commission finds based on evidence in the
55 record that the public utility's capital structure is imprudent. The capital structure
56 shall include the relative proportions of common equity, long-term debt, and preferred
57 stock consistent with the public utility's test year.

58 5. No entity or person other than a public utility shall file an application under
59 sections 393.1800 to 393.1835.

393.1810. 1. The commission shall promulgate a form set of no more than one
2 hundred data requests, in which each data request sub-part shall constitute a data
3 request itself, responses to which shall be submitted to the commission's data request
4 repository. The commission shall promulgate such a form set of data requests on an
5 interim basis as promptly as possible after the effective date of sections 393.1800 to
6 393.1835 without the necessity of observing the rulemaking procedures of chapter 536.

7 After the promulgation of the form set of data requests on an interim basis, the
8 commission shall adopt a set of form data requests in accordance with the rulemaking
9 procedures of chapter 536; provided, however, that any such rules shall be consistent
10 with the provisions of sections 393.1800 to 393.1835 and shall not delay implementation
11 of the provisions of sections 393.1800 to 393.1835.

12 2. Commission staff, public counsel, and intervening parties may obtain
13 information from the public utility through data requests concerning the books, records,
14 data, case proposals and information in the possession of the public utility, and to the
15 extent necessary, any separately incorporated shared services company providing
16 services to that public utility. The public utility may obtain information from the
17 commission staff, public counsel, and intervening parties through data requests on the
18 position of the party or their experts related to the matters raised in the rebuttal or
19 cross-rebuttal testimony. Other means of obtaining information from the parties shall
20 not be permitted except that depositions may be taken in accordance with the Missouri
21 rules of civil procedure.

393.1820. 1. The following deadlines shall apply in proceedings under sections
2 393.1800 to 393.1835 and be incorporated into a procedural schedule that shall be
3 adopted by the commission reflecting the milestones and time frames reflected in the
4 sections 393.1800 to 393.1835:

5 (1) Motions to intervene shall be filed within fifteen days of the filing of the
6 application;

7 (2) The deadline for commission staff, public counsel, and intervening parties to
8 file rebuttal testimony, if any, shall be not later than one hundred five days after the
9 filing of the application. Only rebuttal testimony that accepts, rejects, disagrees with, or
10 reflects an alternative to the public utility's application and direct testimony shall be
11 admissible as evidence;

12 (3) The deadline for commission staff, public counsel, and intervening parties to
13 file cross-rebuttal testimony, if any, shall be not later than one hundred fifteen days after
14 the filing of the application. Cross-rebuttal testimony shall be limited to material which
15 is responsive to matters raised in another party's rebuttal testimony;

16 (4) The public utility shall file surrebuttal testimony and electrical corporations
17 shall file true-up direct testimony not later than one hundred thirty days after the filing
18 of the application. Surrebuttal testimony shall be limited to material which is
19 responsive to matters raised in another party's rebuttal or cross-rebuttal testimony.
20 True-up direct testimony shall be limited to supporting the true-up accounting
21 information and the quantification of the revenue requirement impact of the true-up;

22 **(5) The evidentiary hearing shall commence not later than one hundred fifty-five**
23 **days after the filing of the application;**

24 **(6) An electrical corporation shall provide accounting information for the rate**
25 **base being true-up and shall provide a quantification of the revenue requirement**
26 **impact of the true-up not later one hundred thirty days after the filing of the**
27 **application. Commission staff, public counsel, and intervening parties shall file true-up**
28 **rebuttal testimony, if any, not later than one hundred forty days after the filing of the**
29 **application. True-up rebuttal testimony shall consist solely of correcting any errors in**
30 **the true-up accounting data or quantification of the impact of the true-up on the**
31 **revenue. The electrical corporation shall file any true-up surrebuttal testimony that is**
32 **responsive to true-up rebuttal testimony not later than one hundred fifty days after the**
33 **filing of the application. Contested true-up issues, if any, shall be presented to the**
34 **commission for resolution in the evidentiary hearing that is to be convened not later**
35 **than one hundred fifty-five days after the filing of the application under subdivision (5)**
36 **of this subsection;**

37 **(7) The commission shall ensure that final transcripts from the evidentiary**
38 **hearing are provided to all parties no later than five business days after the conclusion**
39 **of the evidentiary hearing. Any party may file post-hearing initial briefs not later than**
40 **twenty-five days after the end of the evidentiary hearing;**

41 **(8) Any party may file post-hearing reply briefs not later than ten days after the**
42 **filing of post-hearing initial briefs;**

43 **(9) Data requests, objections, and responses shall have the following deadlines:**

44 **(a) Data requests to the public utility related to direct testimony shall be**
45 **submitted not later than eighty-five days after the filing of the application. The public**
46 **utility shall submit objections to such data requests or notifications that it will require**
47 **more than fifteen days to respond to the requesting party no later than ten days after**
48 **receipt of the data request. Responses are due not later than fifteen days after receipt;**

49 **(b) The public utility shall submit data requests regarding rebuttal testimony not**
50 **later than ten days after the filing of rebuttal testimony. Objections to the public**
51 **utility's data requests or notifications that it will require more than ten days to respond**
52 **shall be submitted to the requesting party no later than five business days after receipt**
53 **of the data request. Responses are due not later than ten days after receipt;**

54 **(c) Commission staff and participating parties shall submit data requests**
55 **regarding rebuttal testimony not later than three business days after the filing of**
56 **rebuttal testimony. Objections to such data requests or notifications that it will require**
57 **more than three business days to respond shall be submitted to the requesting party no**

58 later than three business days after receipt of the data request. Responses are due not
59 later than three business days after receipt;

60 (d) Data requests regarding cross-rebuttal testimony shall be submitted not later
61 than three business days after the filing of cross-rebuttal testimony. Objections to such
62 data requests or notifications that it will require more than three business days to
63 respond shall be submitted to the requesting party no later than three business days
64 after receipt. Responses are due not later than three business days after receipt;

65 (e) Data requests regarding surrebuttal testimony shall be submitted to the
66 public utility not later than three business days after the filing of surrebuttal testimony.
67 Public utility objections or notifications that it will require more than five business days
68 to respond shall be submitted to the requesting party no later than three business days
69 after receipt of the data requests. Responses are due not later than five business days
70 after receipt;

71 (f) Data requests regarding true-up testimony shall be submitted not later than
72 three business days after the filing of the testimony to which the data request applies.
73 Objections to true-up data requests or notifications that it will require more than three
74 business days to respond shall be submitted to the requesting party no later than three
75 business days after the data requests. Responses are due not later than three business
76 days after receipt; and

77 (g) Data requests received by a party after noon local time on a business day
78 before a holiday or weekend shall be deemed received the next business day.

79 2. The administrative law judge may grant parties a reasonable extension of time
80 to the deadlines in subsection 1 of this section if the party demonstrates factors beyond
81 its reasonable control render it unable to satisfy the deadline. The authority to modify
82 the procedural schedule shall not allow the administrative law judge nor the commission
83 to extend the deadlines outlined in sections 393.1800 to 393.1835 for the evidentiary
84 hearing or the issuance of its final order setting the public utility's revenue requirement
85 and rates.

86 3. The commission shall convene at least one but no more than three public
87 hearings to accept public comment within the area the public utility provides service.
88 All public hearings shall be convened within one hundred thirty days after filing of the
89 application. Such hearings may be conducted virtually.

90 4. If requested by the applicant no later than ninety days after the filing of the
91 application under sections 393.1800 to 393.1835, the commission shall convene a
92 mandatory settlement conference to be attended by all parties not later than one
93 hundred thirty-five days after filing of the application.

94 **5. If requested by the applicant no later than one hundred eighty days after the**
95 **filing of the application under sections 393.1800 to 393.1835, the commission shall issue**
96 **a proposed order adjudicating all open issues not later than two hundred five days after**
97 **the filing of the application. Parties shall file any comments on the proposed order not**
98 **later than ten days after issuance of the proposed order.**

99 **6. The commission shall issue its final order setting the public utility's revenue**
100 **requirement no later than two hundred thirty days after the filing of the application.**

101 **7. The public utility shall file proposed tariff sheets in compliance with the**
102 **commission's final order within seven days after the commission issues its final order.**
103 **The commission shall issue its order approving tariff sheets filed in compliance with the**
104 **final commission order not later than eight days after the filing of such proposed tariff**
105 **sheets. The commission's order approving compliance tariff sheets shall become**
106 **effective ten days after the issuance of such order.**

393.1825. In any proceeding filed under sections 393.1800 to 393.1835, the base
2 **rates filed in the application shall go into effect no later than two hundred fifty-five days**
3 **after the date the public utility filed the application on an interim basis if the**
4 **commission has not issued an order approving compliance tariff sheets consistent with**
5 **the commission's final order to become effective by that date. The commission's final**
6 **order under sections 393.1800 to 393.1835 shall replace interim rates placed into effect**
7 **under this section. Interim base rates charged under this section shall not be subject to**
8 **refund, nor shall any future rates be adjusted to account for any rate recoveries under**
9 **the interim base rates in excess of what those recoveries would have been had the**
10 **interim base rates not have been charged.**

393.1830. 1. A public utility that is also an electrical corporation, gas
2 **corporation, or heating company may elect to base its return on equity on the fully**
3 **litigated case twelve-month average from the most recent report issued in the**
4 **Regulatory Research Associates Regulatory Focus publication, or its successor**
5 **publication, for the applicable utility type, in lieu of using a projected return on**
6 **equity. In the case of electrical corporations, fully litigated observations from cases for**
7 **electric utilities in restructured jurisdictions or special rider or non-base rate cases in**
8 **other jurisdictions shall be excluded from the average. If the utility elects to use such**
9 **return on equity, such election shall be conclusive and binding on the commission for**
10 **purposes of determining revenue requirement and, except for purposes consistent with**
11 **the last sentence of this subsection, no other evidence of return on equity shall be**
12 **admitted. The commission may establish, in a case order or by other order, operational**
13 **metrics for utilities which, if achieved, may result in an adjustment of up to twenty five**
14 **basis points above or below the Regulatory Research Associates Regulatory Focus**

15 publication, or its successor publication, fully litigated case average return on equity
16 determined as specified above, where dictated by customer service, operations, changing
17 economic or market conditions, or other relevant factors.

18 2. The commission shall consider all admissible evidence on return on equity and
19 select a reasonable return on equity for a public utility that chooses not to or cannot
20 elect the return on equity treatment in subsection 1 of this section.

393.1835. 1. The commission shall favor and promote settlement of cases
2 conducted under sections 393.1800 to 393.1835. Any statute, rule, or judicial application
3 or interpretation thereof including, but not limited to, Missouri state appellate opinions
4 in State ex rel. Fischer v. Public Service Commission of the State of Missouri, reported
5 at 545 S.W.2d 39, and State ex rel. Rice v. Public Service Commission, reported at 220
6 S.W.3d 61, and any appellate decisions relying on the same, that is inconsistent with this
7 policy is hereby abrogated. With respect to settlement agreements in base rate cases
8 under sections 393.1800 to 393.1835, this section prescribes the only process that is due
9 to a nonsettling party.

10 2. Settlement agreements reached between the public utility filing a base rate
11 proceeding under sections 393.1800 to 393.1835 and the commission staff shall be
12 presumed to be reasonable. The commission shall approve settlement agreements
13 reached between the public utility and the commission staff and issue a final order
14 setting the utility's revenue requirement on the terms specified in the settlement
15 agreement absent a finding by the commission, based on competent and substantial
16 evidence after hearing on the sole question of whether the settlement agreement's terms
17 are reasonable, that the proposed settlement is contrary to the public interest.

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