

SECOND REGULAR SESSION  
HOUSE COMMITTEE SUBSTITUTE FOR  
**HOUSE BILL NO. 2248**  
**103RD GENERAL ASSEMBLY**

5923H.03C

JOSEPH ENGLER, Chief Clerk

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**AN ACT**

To repeal section 393.1640, RSMo, and to enact in lieu thereof one new section relating to utility growth projects.

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

Section A. Section 393.1640, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 393.1640, to read as follows:

393.1640. 1. Subject to the limitations provided for in subsection 2 of this section, and upon proper application by an eligible customer prior to public announcement of a growth project, a new or existing account meeting the criteria in this subsection shall qualify for one of the discounts set forth in subdivision (1) or (2) of this subsection:

(1) When the new load is reasonably projected to be at least three hundred kilowatts but not more than ten megawatts and have a load factor of at least forty-five percent, the discount shall equal thirty-five percent and shall apply for five years, provided that if it is expected as of the date the discount is to commence that a thirty-five percent discount would produce revenues from the applicant's total bill that would not exceed the electrical corporation's variable cost to serve the applicant's account or accounts that are to receive the discount, the discount shall be determined so that the percentage discount, rounded to the nearest one percent, is expected, as of the date the discount percentage is determined, to provide revenues ~~[equal to one hundred twenty percent of]~~ **that exceed** the electrical corporation's variable cost to serve the applicant's account or accounts that are to receive the discount;

(2) When the new load is reasonably projected to be more than ten megawatts **but less than seventy-five megawatts** and have a load factor of at least fifty-five percent, the discount percentage~~], rounded to the nearest one percent, shall be determined such that the~~

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.

19 applicant's total bill is expected, as of the date the discount percentage is determined, to  
20 provide revenues equal to one hundred twenty percent of the electrical corporation's variable  
21 cost to serve the applicant's account or accounts that are to receive the discount. Such  
22 discount shall apply for ten years] shall equal thirty-five percent and shall apply for five  
23 years, provided that if it is expected as of the date the discount is to commence that a  
24 thirty-five percent discount would produce revenues from the applicant's total bill that  
25 would not exceed the electrical corporation's variable cost to serve the applicant's  
26 account or accounts that are to receive the discount, the discount shall be determined so  
27 that the percentage discount, rounded to the nearest one percent, is expected, as of the  
28 date the discount percentage is determined, to provide revenues that exceed the  
29 electrical corporation's variable cost to serve the applicant's account or accounts that  
30 are to receive the discount.

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32 [~~For the purposes of this section, the variable cost to serve new load for purposes of~~  
33 ~~establishing a discount under this section shall be determined using (a) the energy and~~  
34 ~~capacity market prices that underlie the net base energy costs reflected in the revenue~~  
35 ~~requirement from the electrical corporation's most recent general rate proceeding; (b) any~~  
36 ~~operations and maintenance expenses that vary with respect to the total number of customers~~  
37 ~~or load served by the electrical corporation, excluding operations and maintenance expenses~~  
38 ~~associated with generating electricity; and (c) any other incremental costs to serve the~~  
39 ~~customer.]~~

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41 To obtain one of the discounts set forth in subdivision (1) or (2) of this subsection, the  
42 customer's load shall be incremental, net of any offsetting load reductions due to the  
43 termination of other accounts of the customer or an affiliate of the customer within twelve  
44 months prior to the commencement of service to the new load, the customer shall receive an  
45 economic development incentive from the local, regional, state, or federal government, or  
46 from an agency or program of any such government, in conjunction with the incremental  
47 load, and the customer shall meet the criteria set forth in the electrical corporation's economic  
48 development rider tariff sheet, as approved by the commission, that are not inconsistent with  
49 the provisions of this subsection. **An applicant shall not be eligible for a discount**  
50 **authorized by this subsection for any new or expanded facility that is determined by an**  
51 **electrical corporation to be a nonqualifying facility as defined in this section.**

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53 Unless otherwise provided for by the electrical corporation's tariff, the applicable discount  
54 shall be a percentage applied to all base-rate components of the bill. The discount shall be  
55 applied to such incremental load from the date when the meter has been permanently set until

56 the date that such incremental load no longer meets the criteria required to qualify for the  
57 discount, as determined under the provisions of subsection 2 of this section. An eligible  
58 customer shall also receive a ten percent discount of all base-rate components of the bill  
59 applied to such incremental load for an additional one-year period beyond the period during  
60 which the applicable discount under subdivision (1) or (2) of this subsection applies if the  
61 electrical corporation determines that the customer is taking service from an under-utilized  
62 circuit. The electrical corporation may include in its tariff additional or alternative terms and  
63 conditions to a customer's utilization of the discount, subject to approval of such terms and  
64 conditions by the commission. The customer, on forms supplied by the electrical corporation,  
65 shall apply for the applicable discount provided for by this subsection at least ninety days  
66 prior to the date the customer requests that the incremental demand receive one of the  
67 discounts provided for by this subsection and shall enter into a written agreement with the  
68 electrical corporation reflecting the discount percentages and other pertinent details. If the  
69 incremental demand is not separately metered, the electrical corporation's determination of  
70 the incremental demand shall control. The electrical corporation shall verify the customer's  
71 incremental demand annually to determine continued qualification for the applicable  
72 discount. Notwithstanding the foregoing provisions of this subsection, the cents-per-kilowatt-  
73 hour realization resulting from application of any discounted rates as calculated shall be  
74 higher than the electrical corporation's variable cost to serve such incremental demand and the  
75 applicable discounted rate also shall make a positive contribution to fixed costs associated  
76 with service to such incremental demand. If in a subsequent general rate proceeding the  
77 commission determines that application of a discounted rate is not adequate to cover the  
78 electrical corporation's variable cost to serve the accounts in question and provide a positive  
79 contribution to fixed costs then the commission shall increase the rate for those accounts  
80 prospectively to the extent necessary to do so.

81         2. In each general rate proceeding concluded after August 28, 2022, the difference in  
82 revenues generated by applying the discounted rates provided for by this section and the  
83 revenues that would have been generated without such discounts shall not be imputed into the  
84 electrical corporation's revenue requirement. Instead, such revenue requirement shall be set  
85 using the revenues generated by such discounted rates and the impact of the discounts  
86 provided for by this section shall be allocated to all the electrical corporation's customer  
87 classes, including the classes with customers that qualify for discounts under this section  
88 through the application of a uniform percentage adjustment to the revenue requirement  
89 responsibility of all customer classes. To qualify for the discounted rates provided for in this  
90 section, customers shall meet the applicable criteria within twenty-four months of initially  
91 receiving discounts based on metering data for calendar months thirteen through twenty-four  
92 and annually thereafter. If such data indicates that the customer did not meet both of the three

93 hundred kilowatt and forty-five percent load factor requirements for any applicable twelve-  
94 month period, it shall thereafter no longer qualify for a discounted rate. For customers  
95 receiving service under subdivision (2) of subsection 1 of this section, if after the fourth year,  
96 the demand has not exceeded ten thousand kilowatts during any twelve-month period, the  
97 customer's qualification shall revert to subdivision (1) of subsection 1 of this section. The  
98 provisions of this section do not supersede or limit the ability of an electrical corporation to  
99 continue to utilize economic development or retention tariffs previously approved by the  
100 commission that are in effect on August 28, 2022. If, however, a customer is receiving any  
101 economic development or retention-related discounts as of the date it would otherwise qualify  
102 for a discount provided for by this section, the customer shall agree to relinquish the prior  
103 discount concurrently with the date it begins to receive a discount under this section;  
104 otherwise, the customer shall not be eligible to receive any discount under this section.  
105 Customer demand existing at the time the customer begins to receive discounted rates under  
106 this section shall not constitute incremental demand. The discounted rates provided for by  
107 this section apply only to base-rate components, with the charges or credits arising from any  
108 rate adjustment mechanism authorized by law to be applied to customers qualifying for  
109 discounted rates under this section in the same manner as such rate adjustments would apply  
110 in the absence of this section.

111 3. For purposes of this section, **the following terms shall mean:**

112 (1) "Electrical corporation" ~~[shall mean]~~, the same as defined in section 386.020, but  
113 shall not include an electrical corporation as described in subsection 2 of section 393.110;

114 (2) **"Nonqualifying facility", one or more buildings that are constructed,  
115 reconstructed, enlarged, remodeled, or leased to house a group of networked computer  
116 servers in this state to centralize the storage, management, and dissemination of data  
117 and information pertaining to a particular business, taxonomy, or body of knowledge  
118 and such buildings are connected to each other by fiber and associated equipment  
119 required for operating a fiber transmission network between the buildings and internet  
120 points for the purpose of providing redundancy and resiliency for the services provided  
121 in each building.**

122 4. An electrical corporation's authority to offer the discounts provided for by this  
123 section shall terminate on the date that such electrical corporation's authority to make the  
124 deferrals required by subsection 2 of section 393.1400 expires.

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