

FIRST REGULAR SESSION

HOUSE BILL NO. 1415

101ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE BROMLEY.

2747H.02I

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal section 393.137, RSMo, and to enact in lieu thereof one new section relating to utility rate adjustment.

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

Section A. Section 393.137, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 393.137, to read as follows:

393.137. 1. ~~[This section applies to electrical corporations that do not have a general rate proceeding pending before the commission as of the later of February 1, 2018, or June 1, 2018. ———2.]~~ For purposes of this section, the following terms shall mean:

(1) "Commission", the public service commission;

(2) **"Tax legislation", additions, deletions, or amendments to the Internal Revenue Code, Title 26 of the United States Code, to the Missouri income tax code, or regulations adopted under chapter 143;**

(3) ~~["Electrical corporation", the same as]~~ **"Utility", an electrical corporation or gas corporation, as defined in section 386.020**~~[, but]~~. "Utility" shall not include an electrical corporation as described in subsection 2 of section 393.110.

~~[3. If the rates of any electrical corporation to which this section applies have not already been adjusted to reflect the effects of the federal 2017 Tax Cut and Jobs Act, Pub. L. No. 115-97, 94 Stat. 2390, the commission shall have one-time authority that shall be exercised within ninety days of June 1, 2018, to adjust such electrical corporation's rates prospectively so that the income tax component of the revenue requirement used to set such an electrical corporation's rates is based upon the provisions of such federal act without considering any other factor as otherwise required by section 393.270. The commission shall also require electrical corporations to which~~

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.

18 ~~this section applies, as provided for under subsection 1 of this section, to defer to a regulatory~~
19 ~~asset the financial impact of such federal act on the electrical corporation for the period of~~
20 ~~January 1, 2018, through the date the electrical corporation's rates are adjusted on a one-time~~
21 ~~basis as provided for in the immediately preceding sentence. The amounts deferred under this~~
22 ~~subsection shall be included in the revenue requirement used to set the electrical corporation's~~
23 ~~rates in its subsequent general rate proceeding through an amortization over a period determined~~
24 ~~by the commission.]~~

25 **2. If the United States Congress or general assembly enacts tax legislation that, had**
26 **it been effective when the utility's base rates were last set, would have resulted in a lower**
27 **income tax component of the revenue requirement used to last set such base rates, the**
28 **commission shall have the authority to, within one hundred eighty days of the effective date**
29 **of the subject tax legislation, enter an order adjusting such utility's base rates prospectively**
30 **so that the income tax component of the revenue requirement used to set such utility's base**
31 **rates is based upon the provisions of such tax legislation without considering any other**
32 **factor as otherwise required by section 393.270. As part of its exercise of such authority,**
33 **the commission shall also require the utility to defer to a regulatory liability an amount**
34 **equal to the difference between what the income tax component of the revenue requirement**
35 **last used to set its base rates was under the law at that time and what the income tax**
36 **component of the revenue requirement would have been had such tax legislation been in**
37 **effect at that time. The deferral period shall commence with the date such tax legislation**
38 **would have resulted in a lower income tax component of such revenue requirement last**
39 **used to set the utility's base rates and continue through the date the utility's base rates are**
40 **next adjusted. The amounts deferred under this subsection shall be included in the**
41 **revenue requirement used to set the utility's base rates in its subsequent general rate**
42 **proceedings through amortization over a period of up to three years, as determined by the**
43 **commission.**

44 ~~[4.]~~ **3. Upon good cause shown by [the electrical corporation] a utility,** the commission
45 may, as an alternative to requiring a ~~[one-time]~~ rate change and deferral under subsection ~~[3]~~ **2**
46 of this section, allow a deferral **to a regulatory liability**, in whole or in part, of ~~[such federal~~
47 ~~act's financial impacts to a regulatory asset starting January 1, 2018,]~~ **the amounts that would**
48 **have been reflected in a base rate reduction under subsection 2 of this section. The**
49 **deferral period shall commence on the date such tax legislation would have resulted in a**
50 **lower income tax component and continue** through the effective date of new rates in such
51 ~~[electrical corporation's]~~ **utility's** next general rate proceeding. The deferred amounts shall be
52 included in the revenue requirement used to set the ~~[electrical corporation's]~~ **utility's** rates in its

53 subsequent general rate proceeding through an amortization over a period determined by the
54 commission.

55 **4. If the United States Congress or general assembly enacts tax legislation that, had**
56 **it been in effect when the utility's base rates were last set, would have resulted in a higher**
57 **income tax component of the revenue requirement used to last set such base rates, the**
58 **utility shall be entitled, by giving notice to the commission within one hundred eighty days**
59 **of the effective date of such tax legislation, to defer to a regulatory asset an amount equal**
60 **to the difference between what the income tax component of the revenue requirement used**
61 **to last set its base rates was under the law at that time and what the income tax component**
62 **of the revenue requirement would have been had such tax legislation been in effect at that**
63 **time. The deferral period shall commence on the date such tax legislation would have**
64 **resulted in a higher income tax component of such revenue requirement last used to set the**
65 **utility's base rates and continue through the date the utility's base rates are next adjusted**
66 **as provided for in this subsection. The amounts deferred under this subsection shall be**
67 **included in the revenue requirement used to set the utility's rates in its subsequent general**
68 **rate proceedings through amortization over a period of up to three years, as determined**
69 **by the commission, without considering any other factor as otherwise required by section**
70 **393.270.**

71 **5. If the tax legislation that either reduces or increases the utility's income tax**
72 **component, under subsection 2 or 4 of this section, does so at a point in time other than**
73 **beginning with its effective date, or does so in multiple stages at different points in time,**
74 **the commission order in subsection 1 of this section and the utility's notice in subsection**
75 **4 of this section shall be deemed to apply to the first point in time when the income tax**
76 **component would have been changed and to subsequent changes in such income tax**
77 **component arising from such tax legislation without the necessity of the commission issuing**
78 **a subsequent order or the utility providing a subsequent notice, as the case may be. Each**
79 **such change shall require a separate base rate change, deferral, and amortization period,**
80 **as applicable.**

81 **6. If the United States Congress or general assembly has, prior to the effective date**
82 **of this section, enacted tax legislation that either reduces or increases the utility's income**
83 **tax component the one-hundred-eighty-day period in subsection 2 and 4 of this section**
84 **shall commence on the effective date of this section.**

85 **7. Notwithstanding any other provision of this section to the contrary, the**
86 **commission's authority to adjust utility rates and require deferrals regarding reductions**
87 **in the income tax component of a utility's revenue requirement under subsections 2 and**
88 **3 of this section, and utility authority to defer and recover increases in the income tax**

89 **component under subsection 4 of this section, shall not exist unless the addition, deletion,**
90 **or amendment to tax legislation results in a difference in the income tax component of the**
91 **utility's revenue requirement, calculated in accordance with subsection 2 or 4 of this**
92 **section, as applicable, that is greater than an amount in excess of two-tenths of one percent**
93 **of such utility's operating revenues reported to the commission in such utility's annual**
94 **report for the calendar year preceding the calendar year in which such difference is**
95 **calculated.**

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