

SECOND REGULAR SESSION

HOUSE BILL NO. 1673

101ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE KIDD.

4053H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal section 393.1715, RSMo, and to enact in lieu thereof one new section relating to utilities.

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

Section A. Section 393.1715, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 393.1715, to read as follows:

393.1715. 1. An electrical corporation may petition the commission for a determination of the ratemaking principles and treatment, as proposed by the electrical corporation, that will apply to the reflection in base rates of the electrical corporation's capital and noncapital costs associated with the proposed retirement of one or more of the electrical corporation's generating facilities. Without limiting the foregoing, such principles and treatment may also establish the retirement date and useful life parameters used to set depreciation rates for such facilities. Except as provided for in subsection 4 of this section, the ratemaking principles and treatment approved by the commission under this section for such facilities shall apply to the determination of the revenue requirement in each of the electrical corporation's post-determination general rate proceedings until such time as such facility is fully depreciated on the electrical corporation's books.

2. If the commission fails to issue a determination within two hundred fifteen days that a petition for determination of ratemaking principles and treatment is filed, the ratemaking principles and treatment proposed by the petitioning electrical corporation shall be deemed to have been approved by the commission.

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 3. Subject to the provisions of subsection 4 of this section, ratemaking principles and
17 treatment approved by the commission, or deemed to have been approved under subsection 2
18 of this section, shall be binding for ratemaking purposes.

19 4. (1) An electrical corporation with ratemaking principles and treatment approved
20 by the commission, or deemed to have been approved under subsection 2 of this section, shall
21 monitor the major factors and circumstances relating to the facility to which such principles
22 and treatment apply. Such factors and circumstances include, but are not limited to:

23 (a) Terrorist activity or an act of God;

24 (b) A significant change in federal or state tax laws;

25 (c) A significant change in federal utility laws or regulations or a significant change
26 in generally accepted accounting principles;

27 (d) An unexpected, extended outage or shutdown of a major generating unit, other
28 than any major generating unit shut down due to an extended outage at the time of the
29 approval of the ratemaking principles and treatment;

30 (e) A significant change in the cost or reliability of power generation technologies;

31 (f) A significant change in fuel prices and wholesale electric market conditions;

32 (g) A significant change in the cost or effectiveness of emission control technologies;

33 (h) A significant change in the price of emission allowances;

34 (i) A significant change in the electrical corporation's load forecast;

35 (j) A significant change in capital market conditions;

36 (k) A significant change in the scope or effective dates of environmental regulations;

37 or

38 (l) A significant change in federal or state environmental laws.

39 (2) If the electrical corporation determines that one or more major factor or
40 circumstance has changed in a manner that warrants a change in the approved ratemaking
41 principles and treatment, then it shall file a notice in the docket in which the approved
42 ratemaking principles and treatment were established within forty-five days of any such
43 determination. In its notification, the electrical corporation shall:

44 (a) Explain and specify the changes it contends are appropriate to the ratemaking
45 principles and treatment and the reasons for the proposed changes;

46 (b) Provide a description of the alternatives that it evaluated and the process that it
47 went through in developing its proposed changes; and

48 (c) Provide detailed workpapers that support the evaluation and the process whereby
49 proposed changes were developed.

50 (3) If a party has concerns regarding the proposed changes, that party shall file a
51 notice of its concerns within thirty days of the electrical corporation's filing. If the parties
52 agree on a resolution of the concerns, the agreement shall be submitted to the commission for

53 approval. If the parties do not reach agreement on changes to the ratemaking principles and
54 treatment within ninety days of the date the electrical corporation filed its notice, whether the
55 previously approved ratemaking and treatment will be changed shall be determined by the
56 commission. If a party to the docket in which the approved ratemaking principles and
57 treatment were approved believes that one or more major factor or circumstance has changed
58 in a manner that warrants a change in the approved ratemaking principles and treatment and if
59 the electrical corporation does not agree the principles and treatment should be changed, such
60 party shall file a notice in the docket in which the approved ratemaking principles and
61 treatment were established within forty-five days of any such determination. In its
62 notification, such party shall:

63 (a) Explain and specify the changes it contends are appropriate to the ratemaking
64 principles and treatment and the reasons for the proposed changes;

65 (b) Provide a description of the alternatives that it evaluated and the process that it
66 went through in developing its proposed changes; and

67 (c) Provide detailed workpapers that support the evaluation and the process whereby
68 proposed changes were developed.

69 (4) If a party, including the electrical corporation, has concerns regarding the
70 proposed changes, that party shall file a notice of its concerns within thirty days of the other
71 party's filing. If the parties do not reach agreement on changes to the ratemaking principles
72 and treatment within ninety days of the date the notice was filed, whether the previously
73 approved ratemaking and treatment will be changed shall be determined by the commission.

74 5. A determination of ratemaking principles and treatment under this section does not
75 preclude an electrical corporation from also petitioning the commission under either or both
76 of sections 393.1700 and 393.1705, provided that any costs to which such ratemaking
77 principles and treatment would have applied in the electrical corporation's general rate
78 proceedings which become funded by securitized utility tariff bond proceeds from a
79 securitized utility tariff bond issued under section 393.1700 shall not thereafter be reflected in
80 the electrical corporation's base rates.

81 6. If determined by the commission to be just, reasonable, and necessary for the
82 provision of safe and adequate service, the electrical corporation may be permitted to retain
83 coal-fired generating assets in rate base and recover costs associated with operating the coal-
84 fired assets that remain in service to provide greater certainty that generating capacity will be
85 available to provide essential service to customers, including during extreme weather events,
86 ~~[and the commission shall not disallow any portion of such cost recovery on the basis that]~~
87 **even if** such coal-fired generating assets operate at a low capacity factor, or are offline and
88 providing capacity only, during normal operating conditions.

89 7. The commission may promulgate rules necessary to implement the provisions of
90 sections 393.1700 to 393.1715. Any rule or portion of a rule, as that term is defined in section
91 536.010, that is created under the authority delegated in this section shall become effective
92 only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable,
93 section 536.028. This section and chapter 536 are nonseverable and if any of the powers
94 vested with the general assembly pursuant to chapter 536 to review, to delay the effective
95 date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant
96 of rulemaking authority and any rule proposed or adopted after August 28, 2021, shall be
97 invalid and void.

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