

SECOND REGULAR SESSION

HOUSE BILL NO. 2124

100TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE MUNTZEL.

4878H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 393.1400, 393.1640, and 393.1655, RSMo, and to enact in lieu thereof three new sections relating to discounted electric rates.

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

Section A. Sections 393.1400, 393.1640, and 393.1655, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 393.1400, 393.1640, and 393.1655, to read as follows:

- 393.1400. 1. For purposes of this section, the following terms shall mean:
- (1) "Commission", the public service commission;
 - (2) "Electrical corporation", the same as defined in section 386.020, but shall not include an electrical corporation as described in subsection 2 of section 393.110;
 - (3) "Qualifying electric plant", all rate-base additions, except rate-base additions for new coal-fired generating units, new nuclear generating units, new natural gas units, or rate-base additions that increase revenues by allowing service to new customer premises;
 - (4) "Rate-base cutoff date", the date rate-base additions are accounted for in a general rate proceeding. In the absence of a commission order that specifies the rate-base cutoff date, such date as reflected in any jointly proposed procedural schedule submitted by the parties in the applicable general rate proceeding, or as otherwise agreed to by such parties, shall be used;
 - (5) "Weighted average cost of capital", the return on rate base used to determine the revenue requirement in the electrical corporation's most recently completed general rate proceeding; provided, that in the absence of a commission determination of the return on rate base within the three-year period prior to August 28, 2018, the weighted average cost of capital shall be determined using the electrical corporation's actual capital structure as of December 31,

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.

17 2017, excluding short-term debt, the electrical corporation's actual cost of long-term debt and
18 preferred stock as of December 31, 2017, and a cost of common equity of nine and one-half
19 percent.

20 2. (1) Notwithstanding any other provision of this chapter to the contrary, electrical
21 corporations shall defer to a regulatory asset eighty-five percent of all depreciation expense and
22 return associated with all qualifying electric plant recorded to plant-in-service on the utility's
23 books commencing on or after August 28, 2018, if the electrical corporation has made the
24 election provided for by subsection 5 of this section by that date, or on the date such election is
25 made if the election is made after August 28, 2018. In each general rate proceeding concluded
26 after August 28, 2018, the balance of the regulatory asset as of the rate-base cutoff date shall be
27 included in the electrical corporation's rate base without any offset, reduction, or adjustment
28 based upon consideration of any other factor, other than as provided for in subdivision (2) of this
29 subsection, with the regulatory asset balance arising from deferrals associated with qualifying
30 electric plant placed in service after the rate-base cutoff date to be included in rate base in the
31 next general rate proceeding. The expiration of this section shall not affect the continued
32 inclusion in rate base and amortization of regulatory asset balances that arose under this section
33 prior to such expiration.

34 (2) The regulatory asset balances arising under this section shall be adjusted to reflect
35 any prudence disallowances ordered by the commission. The provisions of this section shall not
36 be construed to affect existing law respecting the burdens of production and persuasion in
37 general rate proceedings for rate-base additions.

38 (3) Parts of regulatory asset balances created under this section that are not yet being
39 recovered through rates shall include carrying costs at the electrical corporation's weighted
40 average cost of capital, plus applicable federal, state, and local income or excise taxes.
41 Regulatory asset balances arising under this section and included in rate base shall be recovered
42 in rates through a twenty-year amortization beginning on the date new rates reflecting such
43 amortization take effect.

44 3. (1) Depreciation expense deferred under this section shall account for all qualifying
45 electric plant placed into service less retirements of plant replaced by such qualifying electric
46 plant.

47 (2) Return deferred under this section shall be determined using the weighted average
48 cost of capital applied to the change in plant-related rate base caused by the qualifying electric
49 plant, plus applicable federal, state, and local income or excise taxes. In determining the return
50 deferred, the electrical corporation shall account for changes in all plant-related accumulated
51 deferred income taxes and changes in accumulated depreciation, excluding retirements.

52 4. Beginning February 28, 2019, and by each February twenty-eighth thereafter while
53 the electrical corporation is allowed to make the deferrals provided for by subsection 2 of this
54 section, electrical corporations that defer depreciation expense and return authorized under this
55 section shall submit to the commission a five-year capital investment plan setting forth the
56 general categories of capital expenditures the electrical corporation will pursue in furtherance
57 of replacing, modernizing, and securing its infrastructure. The plan shall also include a specific
58 capital investment plan for the first year of the five-year plan consistent with the level of
59 specificity used for annual capital budgeting purposes. For each of the first five years that an
60 electrical corporation is allowed to make the deferrals provided for by subsection 2 of this
61 section, the purchase and installation of smart meters shall constitute no more than six percent
62 of the electrical corporation's total capital expenditures during any given year under the
63 corporation's specific capital investment plan. At least twenty-five percent of the cost of each
64 year's capital investment plan shall be comprised of grid modernization projects, including but
65 not limited to:

66 (1) Increased use of digital information and controls technology to improve reliability,
67 security, and efficiency of the electric grid;

68 (2) Dynamic optimization of grid operations and resources, with full cybersecurity;

69 (3) Deployment and integration of distributed resources and generation, including
70 renewable resources;

71 (4) Development and incorporation of demand response, demand-side resources, and
72 energy-efficiency resources;

73 (5) Deployment of smart technologies (real-time, automated, interactive technologies
74 that optimize the physical operation of appliances and consumer devices) for metering,
75 communications, concerning grid operations and status, and distribution automation;

76 (6) Integration of smart appliances and devices;

77 (7) Deployment and integration of advanced electricity storage and peak-shaving
78 technologies, including plug-in electric and hybrid electric vehicles, and thermal storage air
79 conditioning;

80 (8) Provision of timely information and control options to consumer;

81 (9) Development of standards for communication and interoperability of appliances and
82 equipment connected to the electric grid, including the infrastructure serving the grid; and

83 (10) Identification and lowering of unreasonable or unnecessary barriers to adoption of
84 smart grid technologies, practices, and services.

85 Project specific information need not be included for the five-year period covered by the plan.
86 Within thirty days of the filing of any capital investment plan or annual update to an existing
87 plan, the electrical corporation shall host a public stakeholder meeting to answer questions and

88 receive feedback about the plan. After feedback is received, the electrical corporation shall file
89 a notice with the commission of any modifications to the capital investment plan it has accepted.
90 Changes to the plan, its implementation, or the level of investments made shall not constitute
91 evidence of imprudence of the investments made under such plan. The submission of a capital
92 investment plan under this section shall not affect in any way the commission's authority with
93 respect to the grant or denial of a certificate of convenience and necessity under section 393.170.
94 By February twenty-eighth following each year in which the electrical corporation submits a
95 capital investment plan, the electrical corporation shall submit a report to the commission
96 detailing actual capital investments made the previous year.

97 5. This section shall only apply to any electrical corporation that has filed a notice with
98 the commission of the electrical corporation's election to make the deferrals for which this
99 section provides. No electrical corporation shall file a notice with the commission under this
100 subsection if such corporation has made an application under subsection 3 of section 386.266,
101 and such application has been approved. An electrical corporation's election shall allow it to
102 make the deferrals provided for by subsection 2 of this section until December 31, 2023, unless
103 the electrical corporation requests and the commission approves the continuation of such
104 deferrals beyond that date [~~and approves continuation of the discounts authorized by section~~
105 ~~393.1640 beyond that date as hereinafter provided~~]. An electrical corporation that wishes to
106 continue to make the deferrals provided for by subsection 2 of this section from January 1, 2024,
107 through December 31, 2028, shall obtain the commission's approval to do so, shall be subject
108 to the compound annual growth rate limitations set forth under section 393.1655 [~~and shall also~~
109 ~~obtain the commission's approval to continue to provide the discounts authorized by section~~
110 ~~393.1640~~] in a commission order issued on or before December 31, 2023. The commission shall
111 have the authority to grant or deny such approval based upon the commission's evaluation of the
112 costs and benefits of such continuation to electrical corporations and consumers, but shall not
113 be authorized to condition such approval or otherwise modify the deferrals authorized by
114 subsection 2 of this section [~~or the discounts authorized by section 393.1640~~]. In deciding
115 whether to extend the program for an additional five years, the commission shall develop an
116 objective analytical framework to determine whether there is a continuing need. The
117 commission shall make a finding about whether there is a continuing need after hearing. Failure
118 to obtain such commission approval shall not affect deferrals made through December 31, 2023,
119 or the regulatory and ratemaking treatment of the regulatory assets arising from such deferrals
120 as provided for by this section.

121 6. This section shall expire on December 31, 2028, except that the amortization of the
122 regulatory asset balances arising under this section shall continue to be reflected in the electrical
123 corporation's rates and remaining regulatory asset balances shall be included in the electrical

124 corporation's rate base consistent with the ratemaking treatment and amortization previously
125 approved by the commission pursuant to this section.

393.1640. 1. Subject to the limitations provided for in subsection 2 of this section, and
2 upon proper application by an eligible customer prior to public announcement of a growth
3 project, a new or existing account meeting the following criteria shall be considered for
4 qualification for the discount set forth in this subsection if:

5 (1) The customer adds incremental load, net of any offsetting load reductions due to the
6 termination of other accounts of the customer or an affiliate of the customer within twelve
7 months prior to the commencement of service to the new load, with average monthly demand
8 that is reasonably projected to be at least three hundred kilowatts with a load factor of at least
9 fifty-five percent within two years after the date the application is submitted;

10 (2) The customer receives local, regional, or state economic development incentives in
11 conjunction with the incremental load; and

12 (3) The customer meets the criteria set forth in the electrical corporation's economic
13 development rider tariff sheet, as approved by the commission, that are not inconsistent with the
14 provisions of this subsection.

15 The discount shall be a percentage applied to all base-rate components of the bill. The
16 percentage shall be fixed for each year of service under the discount for a period of up to five
17 years. Subject to the remaining provisions of this subsection, the average of the annual discount
18 percentages shall equal forty percent and shall not be less than thirty percent nor more than fifty
19 percent in any year. The discount shall be applied to such incremental load from the date when
20 the meter has been permanently set until the date that such incremental load no longer meets the
21 criteria required to qualify for the discount, as determined under the provisions of subsection 2
22 of this section. An eligible customer shall also receive a ten percent discount of all base-rate
23 components of the bill applied to such incremental load for one year after the initial discount
24 period ends if the electrical corporation determines that the customer is taking service from an
25 under-utilized circuit. ~~[In no event shall a customer receive a discount under this subsection after~~
26 ~~December 31, 2028.]~~ The electrical corporation may include in its tariff additional or alternative
27 terms and conditions to a customer's utilization of the discount, subject to approval of such terms
28 and conditions by the commission. The customer, on forms supplied by the electrical
29 corporation, shall apply for the discount provided for by this subsection at least ninety days prior
30 to the date the customer requests that the incremental demand receive the discounts provided for
31 by this subsection. If the incremental demand is not separately metered, the electrical
32 corporation's determination of the incremental demand shall control. Notwithstanding the
33 foregoing provisions of this subsection, the cents-per-kilowatt-hour realization resulting from
34 application of any such discounted rate as calculated shall be higher than the electrical

35 corporation's variable cost to serve such accounts in aggregate and the discounted rate also shall
36 make a positive contribution to fixed costs associated with such service. If in a subsequent
37 general rate proceeding the commission determines that application of such discounted rate is
38 not adequate to cover the electrical corporation's variable cost to serve such accounts and provide
39 a positive contribution to fixed costs then the commission shall increase the rate prospectively
40 to the extent necessary to do so.

41 2. In each general rate proceeding concluded after August 28, 2018, the reduced level
42 of revenues arising from the application of discounted rates provided for by subsection 1 of this
43 section shall be allocated to all the electrical corporation's customer classes, including the classes
44 with customers that qualify for discounts under this section. This increase shall be implemented
45 through the application of a uniform percentage adjustment to the revenue requirement
46 responsibility of all customer classes. To qualify for the discounted rates provided for in this
47 section, if incremental load is separately metered, customers shall meet the applicable criteria
48 within twenty-four months after the date the meter is permanently set based on metering data for
49 calendar months thirteen through twenty-four and annually thereafter. If such data indicates that
50 the customer did not meet the criteria for any applicable twelve-month period, it shall thereafter
51 no longer qualify for the discounted rate. The provisions of this section do not supersede or limit
52 the ability of an electrical corporation to continue to utilize economic development or retention
53 tariffs previously approved by the commission that are in effect on August 28, 2018. If,
54 however, a customer is receiving any economic development or retention-related discounts as
55 of the date it would otherwise qualify for a discount provided for by this section, the customer
56 shall agree to relinquish the prior discount concurrently with the date it begins to receive a
57 discount under this section; otherwise, the customer shall not be eligible to receive any discount
58 under this section. Customer demand existing at the time the customer begins to receive
59 discounted rates under this section shall not constitute incremental demand. The discounted rates
60 provided for by this section apply only to base-rate components, with the charges or credits
61 arising from any rate adjustment mechanism authorized by law to be applied to customers
62 qualifying for discounted rates under this section in the same manner as such rate adjustments
63 would apply in the absence of this section.

64 3. For purposes of this section, "electrical corporation" shall mean the same as defined
65 in section 386.020, but shall not include an electrical corporation as described in subsection 2
66 of section 393.110.

67 ~~[4. This section shall expire on December 31, 2028, provided, that unless the electrical~~
68 ~~corporation has timely obtained the order provided for by subsection 5 of section 393.1400, the~~
69 ~~electrical corporation's customers shall, after December 31, 2023, no longer receive the discounts~~
70 ~~provided under this section.]~~

393.1655. 1. This section applies to an electrical corporation that has elected to exercise
2 any option under section 393.1400 and that has more than two hundred thousand Missouri retail
3 customers in 2018, and shall continue to apply to such electrical corporation until December 31,
4 2023, if the commission has not issued an order approving continuation of the deferrals
5 authorized by subsection 2 of section 393.1400, [~~and continuation of the discounts authorized
6 by section 393.1640 as authorized by subsection 5 of section 393.1400 with respect to the
7 electrical corporation,~~] or until December 31, 2028, if the commission has issued such an order
8 with respect to the electrical corporation.

9 2. Notwithstanding any other provision of law and except as otherwise provided for by
10 this section, an electrical corporation's base rates shall be held constant for a period starting on
11 the date new base rates were established in the electrical corporation's last general rate
12 proceeding concluded prior to the date the electrical corporation gave notice under subsection
13 5 of section 393.1400 and ending on the third anniversary of that date, unless a force majeure
14 event as determined by the commission occurs. Whether a force majeure event has occurred
15 shall be subject to commission review and approval in a general rate proceeding, and shall not
16 preclude the commission from reviewing the prudence of any revenue reductions or costs
17 incurred during any proceeding to set rates. This subsection shall not affect the electrical
18 corporation's ability to adjust its nonbase rates during the three-year period provided for in this
19 subsection as authorized by its commission-approved rate adjustment mechanisms arising under
20 section 386.266, 393.1030, or 393.1075, or as authorized by any other rate adjustment
21 mechanism authorized by law.

22 3. This subsection shall apply to electrical corporations that have a general rate
23 proceeding pending before the commission as of the later of February 1, 2018, or August 28,
24 2018. If the difference between (a) the electrical corporation's average overall rate at any point
25 in time while this section applies to the electrical corporation, and (b) the electrical corporation's
26 average overall rate as of the date new base rates are set in the electrical corporation's most recent
27 general rate proceeding concluded prior to the date the electrical corporation gave notice under
28 section 393.1400, reflects a compound annual growth rate of more than three percent, the
29 electrical corporation shall not recover any amount in excess of such three percent as a
30 performance penalty.

31 4. This section shall apply to electrical corporations that do not have a general rate
32 proceeding pending before the commission as of the later of February 1, 2018, or August 28,
33 2018. If the difference between (a) the electrical corporation's average overall rate at any point
34 in time while this section applies to the electrical corporation, and (b) the average of (i) the
35 electrical corporation's average overall rate as of the date new base rates are set in the electrical
36 corporation's most recent general rate proceeding concluded prior to the date the electrical

37 corporation gave notice under section 393.1400, and (ii) the electrical corporation's average
38 overall rate set under section 393.137, reflects a compound annual growth rate of more than two
39 and eighty-five hundredths percent, the electrical corporation shall not recover any amount in
40 excess of such two and eighty-five hundredths percent as a performance penalty.

41 5. If a change in any rates charged under a rate adjustment mechanism approved by the
42 commission under sections 386.266 and 393.1030 would cause an electrical corporation's
43 average overall rate to exceed the compound annual growth rate limitation set forth in subsection
44 3 or 4 of this section, the electrical corporation shall reduce the rates charged under that rate
45 adjustment mechanism in an amount sufficient to ensure that the compound annual growth rate
46 limitation set forth in subsection 3 or 4 of this section is not exceeded due to the application of
47 the rate charged under such mechanism and the performance penalties under such subsections
48 are not triggered. Sums not recovered under any such mechanism because of any reduction in
49 rates under such a mechanism pursuant to this subsection shall be deferred to and included in the
50 regulatory asset arising under section 393.1400 or, if applicable, under the regulatory and
51 ratemaking treatment ordered by the commission under section 393.1400, and recovered through
52 an amortization in base rates in the same manner as deferrals under that section or order are
53 recovered in base rates.

54 6. If the difference between (a) the electrical corporation's class average overall rate at
55 any point in time while this section applies to the electrical corporation, and (b) the electrical
56 corporation's class average overall rate as of the date rates are set in the electrical corporation's
57 most recent general rate proceeding concluded prior to the date the electrical corporation gave
58 notice under subsection 5 of section 393.1400, reflects a compound annual growth rate of more
59 than two percent for the large power service rate class, the class average overall rate shall
60 increase by an amount so that the increase shall equal a compound annual growth rate of two
61 percent over such period for such large power service rate class, with the reduced revenues
62 arising from limiting the large power service class average overall rate increase to two percent
63 to be allocated to all the electrical corporation's other customer classes through the application
64 of a uniform percentage adjustment to the revenue requirement responsibility of all the other
65 customer classes.

66 7. For purposes of this section, the following terms shall mean:

67 (1) "Average base rate", a rate calculated by dividing the total retail revenue requirement
68 for all the electrical corporation's rate classes by the total sales volumes stated in kilowatt-hours
69 for all such rate classes used to set rates in the applicable general rate proceeding, exclusive of
70 gross receipts tax, sales tax, and other similar pass-through taxes;

71 (2) "Average overall rate", a rate equal to the sum of the average base rate and the
72 average rider rate;

73 (3) "Average rider rate", a rate calculated by dividing the total of the sums to be
74 recovered from all customer classes under the electrical corporation's rate adjustment
75 mechanisms in place other than a rate adjustment mechanism under section 393.1075 by the total
76 sales volumes stated in kilowatt-hours for all of the electrical corporation's rate classes used to
77 set rates under such rate adjustment mechanisms, exclusive of gross receipts tax, sales tax, and
78 other similar pass-through taxes;

79 (4) "Class average base rate", a rate calculated by dividing the retail revenue requirement
80 from the applicable general rate proceeding that is allocated to the electrical corporation's large
81 power service rate class in that general rate proceeding, by the total sales volumes stated in
82 kilowatt-hours for that class used to set rates in that general rate proceeding, exclusive of gross
83 receipts tax, sales tax, and other similar pass-through taxes;

84 (5) "Class average overall rate", a rate equal to the sum of the class average base rate and
85 the class average rider rate;

86 (6) "Class average rider rate", a rate calculated by dividing the total of the sums allocated
87 for recovery from the large power service rate class under the electrical corporation's rate
88 adjustment mechanisms in place other than a rate adjustment mechanism under section 393.1075
89 by the total sales volumes stated in kilowatt-hours for that class used to set rates under such rate
90 adjustment mechanisms, exclusive of gross receipts tax, sales tax, and other similar pass-through
91 taxes;

92 (7) "Force majeure event", an event or circumstance that occurs as a result of a weather
93 event, an act of God, war, terrorism, or other event which threatens the financial integrity of the
94 electrical corporation that causes a reduction in revenues, an increase in the cost of providing
95 electrical service, or some combination thereof, and the event has an associated fiscal impact on
96 the electrical corporation's operations equal to three percent or greater of the total revenue
97 requirement established in the electrical corporation's last general rate proceeding after taking
98 into account the financial impact specified in section 393.137. Any force majeure event shall
99 be subject to commission review and approval, and shall not preclude the commission from
100 reviewing the prudence of any revenue reductions or costs incurred during any proceeding to set
101 rates;

102 (8) "Large power service rate class", the rate class of each corporation that requires the
103 highest minimum monthly billing demand of all of the electrical corporation's rate classes in
104 order to qualify as a member of such rate class, and that applies to qualifying customers only if
105 they utilize the electrical corporation's distribution system.

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