

SECOND REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 2541
102ND GENERAL ASSEMBLY

5356H.02C

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal section 393.1400, RSMo, and to enact in lieu thereof one new section relating to deferrals by electrical corporations.

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

Section A. Section 393.1400, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 393.1400, to read as follows: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, 2022, the weighted average cost of capital shall be determined using the electrical corporation's actual capital structure as of December 31, 2021, excluding short-term debt, the electrical corporation's actual cost of long-

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 term debt and preferred stock as of December 31, 2021, and a cost of common equity of nine
20 and one-half percent.

21 2. (1) Notwithstanding any other provision of this chapter to the contrary, electrical
22 corporations shall defer to a regulatory asset [~~eighty-five~~] **one hundred** percent of all
23 depreciation expense and return associated with all qualifying electric plant recorded to plant-
24 in-service on the utility's books commencing on or after August 28, 2018, if the electrical
25 corporation has made the election provided for by subsection 5 of this section by that date, or
26 on the date such election is made if the election is made after August 28, 2018. In each
27 general rate proceeding concluded after August 28, 2018, the balance of the regulatory asset
28 as of the rate-base cutoff date shall, subject only to the cap provided for in section 393.1655
29 or section 393.1656, as applicable, be included in the electrical corporation's rate base without
30 any offset, reduction, or adjustment based upon consideration of any other factor, other than
31 as provided for in subdivision (2) of this subsection, with the regulatory asset balance arising
32 from deferrals associated with qualifying electric plant placed in service after the rate-base
33 cutoff date to be included in rate base in the next general rate proceeding. The expiration of
34 this section shall not affect the continued inclusion in rate base and amortization of regulatory
35 asset balances that arose under this section prior to such expiration.

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

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

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

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

55 4. Beginning February 28, 2019, and by each February twenty-eighth thereafter while
56 the electrical corporation is allowed to make the deferrals provided for by subsection 2 of this
57 section, electrical corporations that defer depreciation expense and return authorized under
58 this section shall submit to the commission a five-year capital investment plan setting forth
59 the general categories of capital expenditures the electrical corporation will pursue in
60 furtherance of replacing, modernizing, and securing its infrastructure. The plan shall also
61 include a specific capital investment plan for the first year of the five-year plan consistent
62 with the level of specificity used for annual capital budgeting purposes. For each project in
63 the specific capital investment plan on which construction commences on or after January
64 first of the year in which the plan is submitted, and where the cost of the project is estimated
65 to exceed twenty million dollars, the electrical corporation shall identify all costs and benefits
66 that can be quantitatively evaluated and shall further identify how those costs and benefits are
67 quantified. For any cost or benefit with respect to such a project that the electrical
68 corporation believes cannot be quantitatively evaluated, the electrical corporation shall state
69 the reasons the cost or benefit cannot be quantitatively evaluated, and how the electrical
70 corporation addresses such costs and benefits when reviewing and deciding to pursue such a
71 project. No such project shall be based solely on costs and benefits that the electrical
72 corporation believes cannot be quantitatively evaluated. Any quantification for such a project
73 that does not produce quantified benefits exceeding the costs shall be accompanied by
74 additional justification in support of the project. For each of the first five years that an
75 electrical corporation is allowed to make the deferrals provided for by subsection 2 of this
76 section, the purchase and installation of smart meters shall constitute no more than six percent
77 of the electrical corporation's total capital expenditures during any given year under the
78 corporation's specific capital investment plan. At least twenty-five percent of the cost of **the**
79 **investments reflected in** each year's capital investment plan, **which for the purposes of this**
80 **subsection shall exclude the costs of investments in new gas-fired generation**, shall be
81 comprised of grid modernization projects, including but not limited to:

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

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

85 (3) Deployment and integration of distributed resources and generation, including
86 renewable resources;

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

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

- 92 (6) Integration of smart appliances and devices;
- 93 (7) Deployment and integration of advanced electricity storage and peak-shaving
94 technologies, including plug-in electric and hybrid electric vehicles, and thermal storage air
95 conditioning;
- 96 (8) Provision of timely information and control options to consumer;
- 97 (9) Development of standards for communication and interoperability of appliances
98 and equipment connected to the electric grid, including the infrastructure serving the grid; and
- 99 (10) Identification and lowering of unreasonable or unnecessary barriers to adoption
100 of smart grid technologies, practices, and services.

101

102 Project specific information need not be included for the five-year period covered by the plan.
103 Within thirty days of the filing of any capital investment plan or annual update to an existing
104 plan, the electrical corporation shall host a public stakeholder meeting to answer questions
105 and receive feedback about the plan. After feedback is received, the electrical corporation
106 shall file a notice with the commission of any modifications to the capital investment plan it
107 has accepted. Changes to the plan, its implementation, or the level of investments made shall
108 not constitute evidence of imprudence of the investments made under such plan. The
109 submission of a capital investment plan under this section shall not affect in any way the
110 commission's authority with respect to the grant or denial of a certificate of convenience and
111 necessity under section 393.170. By February twenty-eighth following each year in which
112 the electrical corporation submits a capital investment plan, the electrical corporation shall
113 submit a report to the commission detailing actual capital investments made the previous
114 year, the quantitatively evaluated benefits and costs generated by each of those investments
115 that exceeded twenty million dollars, and any efficiencies achieved as a result of those
116 investments.

117 5. This section shall only apply to any electrical corporation that has filed a notice
118 with the commission of the electrical corporation's election to make the deferrals for which
119 this section provides. An electrical corporation may provide notice to the commission one
120 time under this subsection if such corporation has applied to the commission under subsection
121 2 of section 386.266, provided the corporation shall not concurrently utilize deferrals under
122 this subsection and the electric rate adjustments set forth in subsection 3 of section 386.266.
123 An electrical corporation's election shall allow it to make the deferrals provided for by
124 subsection 2 of this section until December 31, ~~2028~~ **2035**. Notwithstanding the
125 immediately preceding sentence, an electrical corporation may seek permission to continue to
126 make the deferrals provided for by subsection 2 of this section for an additional five years
127 beyond December 31, ~~2028~~ **2035**, by filing an application with the commission seeking
128 such permission by December 31, ~~2026~~ **2033**, which application shall be ruled upon by the

129 commission within one hundred eighty days after its filing. In deciding whether to grant such
130 permission to continue the commission shall have the authority, consistent with its statutory
131 authority outside this section, to consider such factors as in its judgment it deems necessary
132 and may condition the permission on factors that are relevant to the deferrals authorized by
133 subsection 2 of this section. The commission shall make the determination of whether to
134 grant such permission to continue after a hearing. An electrical corporation making deferrals
135 provided for by subsection 2 of this section on and after January 1, 2024, shall be subject to
136 the revenue requirement impact cap set forth under section 393.1656. Failure to obtain such
137 commission permission to continue shall not affect deferrals made through the date for which
138 permission has been granted, or the regulatory and ratemaking treatment of the regulatory
139 assets arising from such deferrals as provided for by this section.

140 6. The commission may take into account any change in business risk to the
141 corporation resulting from implementation of the deferrals in setting the corporation's allowed
142 return in any rate proceeding, in addition to any other changes in business risk experienced by
143 the corporation.

144 7. This section shall expire on December 31, ~~[2033]~~ **2040**, except that the
145 amortization of the regulatory asset balances arising under this section shall continue to be
146 reflected in the electrical corporation's rates and remaining regulatory asset balances shall be
147 included in the electrical corporation's rate base consistent with the ratemaking treatment and
148 amortization previously approved by the commission pursuant to this section.

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