

HOUSE BILL NO. 2708

101ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE BROMLEY.

5545H.011

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Section A. Section 393.137, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 393.137, to read as follows: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

~~["Electrical corporation", the same as]~~ (3) **"Utility", an electrical corporation, gas corporation, water corporation, or sewer 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~~

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 ~~an electrical corporation's rates is based upon the provisions of such federal act without~~
19 ~~considering any other factor as otherwise required by section 393.270. The commission shall~~
20 ~~also require electrical corporations to which this section applies, as provided for under~~
21 ~~subsection 1 of this section, to defer to a regulatory asset the financial impact of such federal~~
22 ~~act on the electrical corporation for the period of January 1, 2018, through the date the~~
23 ~~electrical corporation's rates are adjusted on a one time basis as provided for in the~~
24 ~~immediately preceding sentence. The amounts deferred under this subsection shall be~~
25 ~~included in the revenue requirement used to set the electrical corporation's rates in its~~
26 ~~subsequent general rate proceeding through an amortization over a period determined by the~~
27 ~~commission.]~~

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

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

55 deferred amounts shall be included in the revenue requirement used to set the electrical
56 corporation's rates in its subsequent general rate proceeding through an amortization over a
57 period determined by the commission.

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

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

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

88 **7. Notwithstanding any other provision of this section to the contrary, the**
89 **commission's authority to adjust utility rates and require deferrals regarding reductions**
90 **in the income tax component of a utility's revenue requirement under subsections 2 and**
91 **3 of this section, and utility authority to defer and recover increases in the income tax**

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

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