

SECOND REGULAR SESSION

SENATE BILL NO. 1132

92ND GENERAL ASSEMBLY

INTRODUCED BY SENATORS STEELMAN, SCOTT, GRIESHEIMER, MATHEWSON,
CHILDERS, KINDER AND NODLER.

Read 1st time January 22, 2004, and ordered printed.

TERRY L. SPIELER, Secretary.

3582S.011

AN ACT

To amend chapter 393, RSMo, by adding thereto one new section relating to the predetermination of prudence and ratemaking principles for infrastructure investments by electric, gas, and water utilities.

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

Section A. Chapter 393, RSMo, is amended by adding thereto one new section, to be known as section 393.156, to read as follows:

393.156. 1. Any electrical, gas, or water corporation proposing to construct, lease, or invest in any new generation plant, transmission facilities, or facilities for the storage or delivery of natural gas or water, or proposing to make modifications or additions to an existing infrastructure, or proposing to enter into any contract for the purchase of power and energy, natural gas, or any multi-year hedging arrangement, may file with the commission an application requesting a determination of prudence of the decision to construct, lease, or invest in such infrastructure based upon the circumstances prevailing and information and alternatives presented at the time of the determination. As part of its application, the corporation may also request that the commission determine certain ratemaking principles that will be applied to the investment or cost of such infrastructure in future proceedings before the commission. The application may include, at the option of the corporation, an application for a certificate of convenience and necessity under section 393.170, if necessary. At the time the application is filed, the corporation shall file all evidence supporting its proposed course of action, including testimony, exhibits, work papers, studies, and electronic versions of all models used. The corporation shall also file proposed confidentiality agreements (including any required by third-party vendors) and identify all material for which a need for confidentiality is asserted. If any

proposed generation facility is not to be located within the state of Missouri or if any proposed contract for power and energy is not with an entity owning generation facilities within the state of Missouri, the corporation shall submit evidence that the location of the facility or the contract is not detrimental to the interest of Missouri ratepayers.

2. The commission shall review the application and make a determination of whether the application is complete within sixty days from the date of filing. If the commission determines the application is incomplete, the corporation shall be given ten days to complete the application. A determination that the application is incomplete shall be appealable to the court of appeals on an expedited basis. The commission shall conduct a hearing and issue an order within two hundred ten days after the determination that the application is complete. If, after hearing, the commission determines that the decision to construct, lease, or invest in such infrastructure, or to enter into such purchase contract is reasonable and prudent, the commission shall issue an order and certificate so stating. The commission may impose conditions on the certificate requiring the corporation to monitor, and to report to the commission on a specified schedule, any changes in specified costs, load, regulatory, economic, or other assumptions upon which the decision was based. No costs for any project or contract shall be included in rates of the corporation until the project is fully operational and used for service or the contract takes effect and the commission has reviewed the prudence of construction management. Nothing in this act alters the authority or procedures of the commission in setting the rates of the corporation.

3. If the commission determines that the proposed facility or contract is prudent and the commission finds that the determination of any ratemaking principles requested by the corporation is in the best interest of ratepayers, the commission may include in the order the ratemaking principles to be applied in any future rate case to the investment and costs of the facility or contract which shall be binding for ratemaking purposes in all future proceedings. Ratemaking principles may include authorized return on common equity, debt structure to finance the facility, estimated service life, depreciation rate for cost of service purposes, jurisdictional allocation method to be applied to the cost, and in-service criteria used to determine when a facility is fully operational and used for service consistent with section 393.135.

4. If the commission fails to issue an order determining the prudence of the proposal within two hundred ten days after the application is filed and determined to be complete, the project or contract is deemed to be prudent as proposed, any certificate for convenience and necessity and any ratemaking principles requested

by the corporation in the application shall be deemed approved by the commission and shall be binding for ratemaking purposes in all future proceedings.

5. The corporation shall have two hundred seventy days after the effective date of an order determining a project or contract to be prudent to notify the commission whether it will construct the facility or enter into the proposed contract. If the corporation notifies the commission it will not proceed with construction of the facility or will not enter into the contract, any ratemaking principles included in the order will be of no further force and effect and there shall be no adverse presumption applied to the corporation in any future proceeding before the commission as a result of the proceedings under this act.

6. At the time of any interim report required by the commission in the order approving the project, the corporation may request the commission to consider a modification or termination of a project for which a certificate has been issued. At any time prior to the completion of the project, the commission on its own motion may require the corporation to present evidence supporting the decision to continue a project for which a certificate has been issued. In the event the commission, after hearing, determines that continuation of a project is no longer prudent, the corporation shall be allowed to recover in rates the amounts already expended on such project including interest expense and a return on equity invested in the project up to the time the order is entered even though the project may never be fully operational or used for service.

7. No corporation shall file more than one application under this act in any twelve month period; provided, however, if an application is dismissed or denied or the corporation notifies the commission it will not proceed under an approved application, the corporation may file a new application for the same or an alternate facility or contract at any time. The commission may waive this limitation when it deems a waiver to be in the public interest.

8. Nothing herein shall excuse a corporation from complying with its public service obligation to provide safe and adequate service at just and reasonable rates.