

FIRST REGULAR SESSION

SENATE BILL NO. 207

97TH GENERAL ASSEMBLY

INTRODUCED BY SENATORS KEHOE, RICHARD, DEMPSEY, CUNNINGHAM, MUNZLINGER,
SCHAEFER, WALSH, LAGER, SATER, McKENNA, SCHAAF, SIFTON,
DIXON, EMERY, CURLS, WASSON AND CHAPPELLE-NADAL.

Read 1st time January 24, 2013, and ordered printed.

TERRY L. SPIELER, Secretary.

0991S.02I

AN ACT

To amend chapter 393, RSMo, by adding thereto two new sections relating to ratemaking for public 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 two new sections, to be known as sections 393.1019 and 393.1110, to read as follows:

393.1019. 1. Notwithstanding any provisions of chapter 386 or this chapter to the contrary, beginning August 28, 2013, an electrical corporation providing electric service may file a petition and proposed rate schedules with the commission to establish or change ISRS rate schedules that will allow for the adjustment of the electrical corporation's rates and charges to provide for the recovery of costs for eligible infrastructure system replacements and additions. The establishment of or change to the ISRS provided for in this section shall be accomplished by applying to electrical corporations the following sections or portions thereof, as if said sections or portions thereof referred to electrical corporations: all of subsection 1 of section 393.1012, except the first sentence; all of subsections 2 and 3 of section 393.1012; and all of section 393.1015, except subsection 11. In applying said sections or portions thereof to electrical corporations, all references in said sections or portions thereof to a gas corporation shall be deemed to instead refer to an electrical corporation, and the terms used in said sections or portions thereof that are defined in section 393.1009, which is applicable to an ISRS for a gas corporation, shall be replaced by the corresponding terms provided for in subsection 2 of this section, as applicable to an ISRS for an electrical corporation.

21 2. As used in the application to electrical corporations of the
22 sections or portions thereof identified in subsection 1 of this section,
23 the following terms shall mean:

24 (1) "Appropriate pretax revenues", the revenues necessary to
25 produce net operating income equal to:

26 (a) The electrical corporation's weighted cost of capital
27 multiplied by the net original cost of eligible infrastructure system
28 replacements and additions, including recognition of accumulated
29 deferred income taxes and accumulated depreciation associated with
30 eligible infrastructure system replacements and additions which are
31 included in a currently effective ISRS;

32 (b) State, federal, and local income or excise taxes applicable to
33 such income; and

34 (c) All other ISRS costs;

35 (2) "Commission", the Missouri public service commission;

36 (3) "Electrical corporation", shall have the same meaning as in
37 subdivision (15) of section 386.020;

38 (4) "Electric utility plant projects", consist of the following:

39 (a) Electric plant, as defined in subdivision (14) of section
40 386.020, including but not limited to poles, towers, wires, conduit,
41 transformers, substations, generating plants and their components, and
42 cyber-security, customer service, and smart grid investments, whether
43 installed as replacements for existing components that have worn out,
44 are in a deteriorated condition, or are anticipated to be in need of
45 replacement, or whether added to the electrical corporation's
46 infrastructure;

47 (b) If not being recovered in a rate schedule authorized by
48 subsection 2 of section 386.266, the costs of capital projects undertaken
49 to comply with federal, state, or local environmental or safety statutes,
50 ordinances, or regulations; and

51 (c) The costs of facilities relocations required due to
52 construction or improvement of a highway, road, street, public way, or
53 other public work by or on behalf of the United States, this state, a
54 political subdivision of this state, or another entity having the power
55 of eminent domain provided that the costs related to such projects have
56 not been reimbursed to the electrical corporation;

57 (5) "Eligible infrastructure system replacements and additions",

58 electric utility plant projects that:

59 (a) Do not increase revenues by directly connecting the
60 infrastructure replacement or addition to new customers;

61 (b) Are in service and used and useful;

62 (c) Were not included in the electrical corporation's rate base in
63 its most recent general rate case; and

64 (d) Replace or extend the useful life of existing infrastructure or
65 are for additional infrastructure;

66 (6) "ISRS", infrastructure system replacement surcharge;

67 (7) "ISRS costs", depreciation expense for all eligible
68 infrastructure system replacements and additions that are placed in
69 service and became used and useful since the date through which rate
70 base additions were accounted for in developing the revenue
71 requirement in the electrical corporation's most recent general rate
72 case or its last ISRS filing offset by retirements and changes to the
73 accumulated depreciation reserve over the same time period, and
74 return on said eligible infrastructure system replacements and
75 additions at the electrical corporation's weighted cost of capital used
76 to determine the appropriate pretax revenues, with both the
77 depreciation and return to be deferred on the electrical corporation's
78 books between the time the eligible infrastructure system replacements
79 and additions were placed in service and the effective date of an ISRS
80 rate schedule reflecting the deferred depreciation and return;

81 (8) "ISRS revenues", revenues produced through an ISRS
82 exclusive of revenues from all other rates and charges.

83 3. The commission shall have the authority to promulgate rules
84 for the implementation of this section, but only to the extent such rules
85 are consistent with, and do not delay the implementation of, the
86 provisions of this section. Any rule or portion of a rule, as that term is
87 defined in section 536.010 that is created under the authority delegated
88 in this section shall become effective only if it complies with and is
89 subject to all of the provisions of chapter 536, and, if applicable, section
90 536.028. This section and chapter 536 are nonseverable and if any of
91 the powers vested with the general assembly pursuant to chapter 536
92 to review, to delay the effective date, or to disapprove and annul a rule
93 are subsequently held unconstitutional, then the grant of rulemaking
94 authority and any rule proposed or adopted after August 28, 2013, shall

95 be invalid and void.

393.1110. 1. Notwithstanding any provision of chapter 386 or this
2 chapter to the contrary, in all electrical corporation general rate
3 proceedings initiated after August 28, 2013, the commission shall
4 implement a mechanism to track any differences between:

5 (1) The non-capitalized costs used to set the revenue requirement
6 in that rate case for the electrical corporation's or its affiliate's labor,
7 training, benefits, including but not limited to workers compensation
8 insurance and payroll taxes, property taxes, property insurance, and
9 external contractors contracted with by the electrical corporation for
10 the operation or maintenance of the electrical corporation's
11 transmission, distribution, or generation systems; and

12 (2) The sum of those costs that are actually incurred by, or
13 allocated to, the electrical corporation as reflected on its books and
14 records in subsequent periods.

15 2. The electrical corporation shall defer any amounts tracked
16 under subsection 1 of this section on its books and records as a
17 regulatory asset or regulatory liability. In its next general rate
18 proceeding, the regulatory asset or regulatory liability will be included
19 in the determination of the electrical corporation's revenue
20 requirement through an amortization over a period of three years,
21 without any offset, reduction, or adjustment based upon consideration
22 of any other factor or otherwise, except for a review of the prudence of
23 the costs included in any regulatory asset as part of the general rate
24 proceeding. Notwithstanding the foregoing, the following costs shall
25 not be included in the electrical corporation's or its affiliate's labor or
26 benefits components of the foregoing calculation:

27 (1) Any costs in a separate deferred accounting mechanism or
28 tracker;

29 (2) Labor costs for the electrical corporation's or the electrical
30 corporation parent company's officers; and

31 (3) That portion of the electrical corporation's labor costs that
32 consist of incentive compensation that is dependent on the electrical
33 corporation's or the electrical corporation's parent company's earnings.

34 3. In subsequent general rate proceedings occurring after a
35 general rate proceeding where an amortization through rates of a
36 regulatory asset or regulatory liability began, any unamortized balance

37 shall be included in the electrical corporation's revenue requirement
38 through a re-amortization of said balance over a period of three years,
39 also without any offset, reduction, or adjustment based upon
40 consideration of any other factor or otherwise.

41 4. The commission shall have the authority to promulgate rules
42 for the implementation of this section, but only to the extent such rules
43 are consistent with, and do not delay the implementation of, the
44 provisions of this section. Any rule or portion of a rule, as that term is
45 defined in section 536.010 that is created under the authority delegated
46 in this section shall become effective only if it complies with and is
47 subject to all of the provisions of chapter 536, and, if applicable, section
48 536.028. This section and chapter 536 are nonseverable and if any of
49 the powers vested with the general assembly pursuant to chapter 536
50 to review, to delay the effective date, or to disapprove and annul a rule
51 are subsequently held unconstitutional, then the grant of rulemaking
52 authority and any rule proposed or adopted after August 28, 2013, shall
53 be invalid and void.

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