

FIRST REGULAR SESSION

SENATE BILL NO. 377

100TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR RIDDLE.

Read 1st time February 12, 2019, and ordered printed.

ADRIANE D. CROUSE, Secretary.

1946S.01I

AN ACT

To amend chapter 393, RSMo, by adding thereto four new sections relating to water and wastewater infrastructure.

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

Section A. Chapter 393, RSMo, is amended by adding thereto four new sections, to be known as sections 393.1500, 393.1502, 393.1504, and 393.1506, to read as follows:

393.1500. Sections 393.1500 to 393.1506 shall be known and may be cited as the "Missouri Water and Wastewater Infrastructure Resilience Act".

393.1502. As used in sections 393.1500 to 393.1506, the following terms shall mean:

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

(a) The water or sewer corporation's pretax weighted cost of capital multiplied by the net original cost of eligible infrastructure system projects, including recognition of accumulated deferred income taxes and accumulated depreciation associated with eligible infrastructure system projects which are included in a currently effective infrastructure resilience rate adjustment implemented under sections 393.1504 and 393.1506;

(b) The state, federal, and local income or excise taxes applicable to the revenues;

(c) The depreciation expense applicable to the eligible infrastructure system project; or

(d) The property taxes applicable to the eligible infrastructure that will be due within twelve months of the filing of a request to

18 implement an infrastructure resilience rate adjustment under sections
19 393.1504 and 393.1506;

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

21 (3) "Eligible infrastructure system projects", water or sewer
22 utility plant projects that:

23 (a) Replace, reinforce, strengthen, or improve reliability or
24 resilience of the existing infrastructure including, but not limited to,
25 water transmission and distribution mains, valves, hydrants, service
26 lines, pumps, sewer collecting lines and associated pumping and
27 transmission facilities, water treatment plant facilities, wells and
28 storage facilities, and sewer treatment facilities;

29 (b) Are in service, used, and useful;

30 (c) Do not increase revenues by directly connecting the eligible
31 infrastructure system project to new customers; and

32 (d) The costs of which were not included in the water or sewer
33 corporation's base rates in its most recent general rate case;

34 (4) "Infrastructure resilience rate adjustment" or "IRRA", a
35 separate line item rate on a customer's water system projects
36 implemented under sections 393.1500 to 393.1506;

37 (5) "IRRA revenues", revenues produced through implementation
38 of an IRRA under sections 393.1500 to 393.1506, exclusive of revenues
39 from all other rates and charges;

40 (6) "Sewer corporation", the same as defined in section 386.020;

41 (7) "Water corporation", the same as defined in section 386.020.

393.1504. 1. Notwithstanding any provisions of this chapter and
2 chapter 386 to the contrary, a water or sewer corporation providing
3 water or sewer service anywhere within the state may file a petition
4 and proposed rate schedules with the commission to establish or
5 change an IRRA that will provide for the recovery of the appropriate
6 pretax revenues associated with the eligible infrastructure system
7 projects, provided that the IRRA, on an annualized basis, must produce
8 IRRA revenues of at least one million dollars. In addition, the IRRA,
9 individually or when combined with a currently effective ISRS under
10 subsection 1 of section 393.1003, shall not produce revenues in excess
11 of fifteen percent of the water or sewer corporation's base revenue
12 requirement approved by the commission in the water or sewer
13 corporation's most recent general rate proceeding. The IRRA and any

14 future changes thereto shall be calculated and implemented in
15 accordance with the provisions of sections 393.1502 and 393.1506. IRRA
16 revenues shall be subject to refund based upon a finding and order of
17 the commission, to the extent provided in subsections 5 and 8 of section
18 393.1506.

19 2. The commission shall not approve an IRRA for a water or
20 sewer corporation that has not had a general rate proceeding decided
21 or dismissed by issuance of a commission order in the three years
22 before the filing of a petition under this section, unless the water or
23 sewer corporation has filed for or is the subject of a new general rate
24 proceeding.

25 3. In no event shall a water or sewer corporation collect an IRRA
26 for a period exceeding three years unless the water or sewer
27 corporation has filed for or is the subject of a new general rate
28 proceeding, provided that the IRRA may be collected until the effective
29 date of new rate schedules established under a new general rate
30 proceeding or until the subject general rate proceeding is otherwise
31 decided or dismissed by issuance of a commission order without new
32 rates being established.

393.1506. 1. (1) At the time that a water or sewer corporation
2 files a petition under section 393.1504, it shall submit proposed IRRA
3 rate schedules and supporting documentation regarding the calculation
4 of the proposed IRRA with the petition and shall serve the office of the
5 public counsel with a copy of its petition, its proposed IRRA rate
6 schedules, and the supporting documentation.

7 (2) Upon the filing of a petition and any associated IRRA rate
8 schedules seeking to establish or change an IRRA, the commission shall
9 publish notice of the filing.

10 2. (1) When a petition, along with any associated proposed rate
11 schedules, is filed under section 393.1504 and this section, the
12 commission shall conduct an examination of the proposed IRRA.

13 (2) The commission may examine the schedules and
14 documentation submitted by the water or sewer corporation to confirm
15 that the underlying costs are in accordance with the provisions of
16 section 393.1504 and this section and that such costs are properly
17 calculated. The commission may also create a report regarding its
18 examination no later than sixty days after the petition is filed. No

19 other revenue requirement or ratemaking issues shall be examined in
20 consideration of the petition or associated proposed IRRA rate
21 schedules filed under the provisions of sections 393.1500 to 393.1506.

22 (3) The commission may hold a hearing on the petition and any
23 associated IRRA rate schedules and shall issue an order with an
24 effective date no later than one hundred twenty days after the petition
25 is filed.

26 (4) If the commission finds that a petition complies with the
27 requirements of section 393.1504 and this section, the commission shall
28 enter an order authorizing the water or sewer corporation to
29 implement an IRRA that is sufficient to recover appropriate pretax
30 revenues, as determined by the commission under section 393.1504 and
31 this section.

32 3. A water or sewer corporation may petition for a change in its
33 IRRA under this section no more than twice in a twelve-month period.

34 4. In determining the appropriate pretax revenues, the
35 commission shall consider only the following:

36 (1) The current state, federal, and local income or excise tax
37 rates;

38 (2) The water or sewer corporation's actual regulatory capital
39 structure as determined during the most recent general rate
40 proceeding of the water or sewer corporation;

41 (3) The actual cost rates for the water or sewer corporation's
42 debt and preferred stock as determined during the most recent general
43 rate proceeding of the water or sewer corporation;

44 (4) The water or sewer corporation's cost of common equity as
45 determined during the most recent general rate proceeding of the
46 water or sewer corporation;

47 (5) The current property tax rate or rates applicable to the
48 eligible infrastructure system projects; and

49 (6) The current depreciation rates applicable to the eligible
50 infrastructure system projects.

51 In the event information considered under subdivisions (2), (3), and (4)
52 of this subsection is unavailable and the commission is not provided
53 with such information on an agreed-upon basis, the commission shall
54 utilize the last authorized overall pretax weighted average cost of
55 capital for an IRRA or the last authorized overall pretax weighted

56 average cost of capital in a general rate proceeding of the water or
57 sewer corporation.

58 5. (1) An IRRA shall be calculated based upon the amount of
59 infrastructure system project costs that are eligible for recovery during
60 the period in which the IRRA will be in effect and upon the applicable
61 customer class billing determinants utilized in designing the water or
62 sewer corporation's customer rates in its most recent general rate
63 proceeding and allocated in a manner consistent with the rate design
64 methodology utilized to develop the water or sewer corporation's rates
65 resulting from its most recent general rate proceeding.

66 (2) At the end of each calendar year that an IRRA is in effect, the
67 water or sewer corporation shall reconcile the differences between the
68 revenues resulting from an IRRA and the appropriate pretax revenues
69 as found by the commission for that period and shall submit the
70 reconciliation and a proposed IRRA to the commission for approval to
71 recover or credit the difference, as appropriate, through an IRRA.

72 6. (1) A water or sewer corporation that has implemented an
73 IRRA under the provisions of section 393.1504 and this section shall file
74 revised IRRA schedules to reset the IRRA to zero when new base rates
75 and charges become effective for the water or sewer corporation
76 following a commission order establishing customer rates in a general
77 rate proceeding that incorporates in the utility's base rates, subject to
78 subsections 8 and 9 of this section, eligible costs previously reflected
79 in an IRRA.

80 (2) Upon the inclusion in a water or sewer corporation's base
81 rates of eligible costs previously reelected in an IRRA, subject to
82 subsections 8 and 9 of this section, the water or sewer corporation shall
83 immediately thereafter reconcile any previously unreconciled IRRA
84 revenues as necessary to ensure that revenues resulting from the IRRA
85 match as closely as possible the appropriate pretax revenues as found
86 by the commission for that period.

87 7. A water or sewer corporation's filing of a petition to establish
88 or change an IRRA under the provisions of section 393.1504 and this
89 section shall not be considered a request for a general increase in the
90 water or sewer corporation's base rates and charges.

91 8. Nothing contained in section 393.1504 and this section shall be
92 construed to impair the authority of the commission to review the

93 prudence or eligibility of specific projects included in the proposed
94 IRRA, including the authority to approve, modify, or reject project
95 costs based on prudence and eligibility requirements.

96 9. The commission shall have authority to promulgate rules for
97 the implementation of sections 393.1500 to 393.1506, but only to the
98 extent such rules are consistent with and do not delay the
99 implementation of the provisions of sections 393.1500 to 393.1506. Any
100 rule or portion of a rule, as that term is defined in section 536.010 that
101 is created under the authority delegated in this section shall become
102 effective only if it complies with and is subject to all of the provisions
103 of chapter 536, and, if applicable, section 536.028. This section and
104 chapter 536 are nonseverable and if any of the powers vested with the
105 general assembly pursuant to chapter 536, to review, to delay the
106 effective date, or to disapprove and annul a rule are subsequently held
107 unconstitutional, then the grant of rulemaking authority and any rule
108 proposed or adopted after August 28, 2019, shall be invalid and void.

✓

Bill

Copy