SENATE COMMITTEE SUBSTITUTE

FOR

SENATE BILL NO. 1422

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Section A. Section 393.1400, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 393.1400, to read as follows: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-term debt and preferred stock as of December 31, 2021, and a cost of common equity of nine and one-half percent.

2. (1) Notwithstanding any other provision of this chapter to the contrary, electrical corporations shall defer to a regulatory asset eighty-five percent of all depreciation expense and return associated with all qualifying electric plant recorded to plant-in-service on the utility's books commencing on or after **[**August 28, 2018, if**]** the electrical corporation **[**has**]** made the election provided for by subsection 5 of this section **[**by that date, or on the date such election is made if the election is made after August 28, 2018**]** through August 27, 2024. Beginning August 28, 2024, and notwithstanding any other provision of this chapter to the contrary, electrical corporations shall defer to a regulatory asset eighty-five percent of all depreciation expense and return associated with all qualifying electric plant recorded to plant-in-service on the utility's books, except for a qualifying electric plant that consists of investment in new generating units including new energy storage systems for which the deferral shall be ninety percent. In each general rate proceeding concluded after August 28, 2018, the balance of the regulatory asset as of the rate-base cutoff date shall, subject only to the cap provided for in section 393.1655 or section 393.1656, as applicable, be included in the electrical corporation's rate base without any offset,

reduction, or adjustment based upon consideration of any other factor, other than as provided for in subdivision (2) of this subsection, with the regulatory asset balance arising from deferrals associated with qualifying electric plant placed in service after the rate-base cutoff date to be included in rate base in the next general rate proceeding. The expiration of this section shall not affect the continued inclusion in rate base and amortization of regulatory asset balances that arose under this section prior to such expiration.

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

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

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

(2) Return deferred under this section shall be determined using the weighted average cost of capital applied to the change in plant-related rate base caused by the qualifying electric plant, plus applicable federal,

state, and local income or excise taxes. In determining the return deferred, the electrical corporation shall account for changes in all plant-related accumulated deferred income taxes and changes in accumulated depreciation, excluding retirements.

4. Beginning February 28, 2019, and by each February twenty-eighth thereafter while the electrical corporation is allowed to make the deferrals provided for by subsection 2 of this section, electrical corporations that defer depreciation expense and return authorized under this section shall submit to the commission a five-year capital investment plan setting forth the general categories of capital expenditures the electrical corporation will pursue in furtherance of replacing, modernizing, and securing its infrastructure. The plan shall also include a specific capital investment plan for the first year of the five-year plan consistent with the level of specificity used for annual capital budgeting purposes. For each project in the specific capital investment plan on which construction commences on or after January first of the year in which the plan is submitted, and where the cost of the project is estimated to exceed twenty million dollars, the electrical corporation shall identify all costs and benefits that can be quantitatively evaluated and shall further identify how those costs and benefits are quantified. For any cost or benefit with respect to such a project that the electrical corporation believes cannot be quantitatively evaluated, the electrical corporation shall state the reasons the cost or benefit cannot be quantitatively evaluated, and how the electrical corporation addresses such costs and benefits when reviewing and deciding to pursue such a project. No such project shall be based solely on costs and benefits that the electrical corporation believes cannot be

quantitatively evaluated. Any quantification for such a project that does not produce quantified benefits exceeding the costs shall be accompanied by additional justification in support of the project. For each of the first five years that an electrical corporation is allowed to make the deferrals provided for by subsection 2 of this section, the purchase and installation of smart meters shall constitute no more than six percent of the electrical corporation's total capital expenditures during any given year under the corporation's specific capital investment plan. At least twenty-five percent of the cost of the investments reflected in each year's capital investment plan, which for the purposes of this subsection shall exclude the cost of investments in new generating units and energy storage systems, shall be comprised of grid modernization projects, including but not limited to:

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

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

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

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

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

(6) Integration of smart appliances and devices;

(7) Deployment and integration of advanced electricity storage and peak-shaving technologies, including plug-in

electric and hybrid electric vehicles, and thermal storage air conditioning;

(8) Provision of timely information and control options to consumer;

(9) Development of standards for communication and interoperability of appliances and equipment connected to the electric grid, including the infrastructure serving the grid; and

(10) Identification and lowering of unreasonable or unnecessary barriers to adoption of smart grid technologies, practices, and services.

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

5. This section shall only apply to any electrical corporation that has filed a notice with the commission of the electrical corporation's election to make the deferrals for which this section provides. An electrical corporation may provide notice to the commission one time under this subsection if such corporation has applied to the commission under subsection 2 of section 386.266, provided the corporation shall not concurrently utilize deferrals under this subsection and the electric rate adjustments set forth in subsection 3 of section 386.266. An electrical corporation's election shall allow it to make the deferrals provided for by subsection 2 of this section until December 31, **[**2028**]** <u>2035</u>. Notwithstanding the immediately preceding sentence, an electrical corporation may seek permission to continue to make the deferrals provided for by subsection 2 of this section for an additional five years beyond December 31, **[**2028**]** <u>2035</u>, by filing an application with the commission seeking such permission by December 31, **[**2026**]** <u>2033</u>, which application shall be ruled upon by the commission within one hundred eighty days after its filing. In deciding whether to grant such permission to continue the commission shall have the authority, consistent with its statutory authority outside this section, to consider such factors as in its judgment it deems necessary and may condition the permission on factors that are relevant to the deferrals authorized by subsection 2 of this section. The commission shall make the determination of whether to grant such permission to continue after a hearing. An electrical corporation making deferrals provided for by subsection 2 of this section on and after January 1, 2024, shall be subject to the revenue requirement impact cap set forth under

section 393.1656. Failure to obtain such commission permission to continue shall not affect deferrals made through the date for which permission has been granted, or the regulatory and ratemaking treatment of the regulatory assets arising from such deferrals as provided for by this section.

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

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