

SENATE BILL NO. 1422

102ND GENERAL ASSEMBLY

5637S.02C

KRISTINA MARTIN, Secretary

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Section A. Section 393.1400, RSMo, is repealed and one
2 new section enacted in lieu thereof, to be known as section
3 393.1400, to read as follows:

393.1400. 1. For purposes of this section, the
2 following terms shall mean:

3 (1) "Commission", the public service commission;

4 (2) "Electrical corporation", the same as defined in
5 section 386.020, but shall not include an electrical
6 corporation as described in subsection 2 of section 393.110;

7 (3) "Qualifying electric plant", all rate-base
8 additions, except rate-base additions for new coal-fired
9 generating units, new nuclear generating units, [new natural
10 gas units,] or rate-base additions that increase revenues by
11 allowing service to new customer premises;

12 (4) "Rate-base cutoff date", the date rate-base
13 additions are accounted for in a general rate proceeding.
14 In the absence of a commission order that specifies the rate-
15 base cutoff date, such date as reflected in any jointly
16 proposed procedural schedule submitted by the parties in the
17 applicable general rate proceeding, or as otherwise agreed
18 to by such parties, shall be used;

19 (5) "Weighted average cost of capital", the return on
20 rate base used to determine the revenue requirement in the

EXPLANATION-Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

21 electrical corporation's most recently completed general
22 rate proceeding; provided, that in the absence of a
23 commission determination of the return on rate base within
24 the three-year period prior to August 28, 2022, the weighted
25 average cost of capital shall be determined using the
26 electrical corporation's actual capital structure as of
27 December 31, 2021, excluding short-term debt, the electrical
28 corporation's actual cost of long-term debt and preferred
29 stock as of December 31, 2021, and a cost of common equity
30 of nine and one-half percent.

31 2. (1) Notwithstanding any other provision of this
32 chapter to the contrary, electrical corporations shall defer
33 to a regulatory asset eighty-five percent of all
34 depreciation expense and return associated with all
35 qualifying electric plant recorded to plant-in-service on
36 the utility's books commencing on or after [August 28, 2018,
37 if] the electrical corporation [has] made the election
38 provided for by subsection 5 of this section [by that date,
39 or on the date such election is made if the election is made
40 after August 28, 2018] **through August 27, 2024. Beginning**
41 **August 28, 2024, and notwithstanding any other provision of**
42 **this chapter to the contrary, electrical corporations shall**
43 **defer to a regulatory asset eighty-five percent of all**
44 **depreciation expense and return associated with all**
45 **qualifying electric plant recorded to plant-in-service on**
46 **the utility's books, except for a qualifying electric plant**
47 **that consists of investment in new generating units**
48 **including new energy storage systems for which the deferral**
49 **shall be ninety percent.** In each general rate proceeding
50 concluded after August 28, 2018, the balance of the
51 regulatory asset as of the rate-base cutoff date shall,
52 subject only to the cap provided for in section 393.1655 or

53 section 393.1656, as applicable, be included in the
54 electrical corporation's rate base without any offset,
55 reduction, or adjustment based upon consideration of any
56 other factor, other than as provided for in subdivision (2)
57 of this subsection, with the regulatory asset balance
58 arising from deferrals associated with qualifying electric
59 plant placed in service after the rate-base cutoff date to
60 be included in rate base in the next general rate
61 proceeding. The expiration of this section shall not affect
62 the continued inclusion in rate base and amortization of
63 regulatory asset balances that arose under this section
64 prior to such expiration.

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

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

80 3. (1) Depreciation expense deferred under this
81 section shall account for all qualifying electric plant
82 placed into service less retirements of plant replaced by
83 such qualifying electric plant.

84 (2) Return deferred under this section shall be
85 determined using the weighted average cost of capital
86 applied to the change in plant-related rate base caused by
87 the qualifying electric plant, plus applicable federal,
88 state, and local income or excise taxes. In determining the
89 return deferred, the electrical corporation shall account
90 for changes in all plant-related accumulated deferred income
91 taxes and changes in accumulated depreciation, excluding
92 retirements.

93 4. Beginning February 28, 2019, and by each February
94 twenty-eighth thereafter while the electrical corporation is
95 allowed to make the deferrals provided for by subsection 2
96 of this section, electrical corporations that defer
97 depreciation expense and return authorized under this
98 section shall submit to the commission a five-year capital
99 investment plan setting forth the general categories of
100 capital expenditures the electrical corporation will pursue
101 in furtherance of replacing, modernizing, and securing its
102 infrastructure. The plan shall also include a specific
103 capital investment plan for the first year of the five-year
104 plan consistent with the level of specificity used for
105 annual capital budgeting purposes. For each project in the
106 specific capital investment plan on which construction
107 commences on or after January first of the year in which the
108 plan is submitted, and where the cost of the project is
109 estimated to exceed twenty million dollars, the electrical
110 corporation shall identify all costs and benefits that can
111 be quantitatively evaluated and shall further identify how
112 those costs and benefits are quantified. For any cost or
113 benefit with respect to such a project that the electrical
114 corporation believes cannot be quantitatively evaluated, the
115 electrical corporation shall state the reasons the cost or

116 benefit cannot be quantitatively evaluated, and how the
117 electrical corporation addresses such costs and benefits
118 when reviewing and deciding to pursue such a project. No
119 such project shall be based solely on costs and benefits
120 that the electrical corporation believes cannot be
121 quantitatively evaluated. Any quantification for such a
122 project that does not produce quantified benefits exceeding
123 the costs shall be accompanied by additional justification
124 in support of the project. For each of the first five years
125 that an electrical corporation is allowed to make the
126 deferrals provided for by subsection 2 of this section, the
127 purchase and installation of smart meters shall constitute
128 no more than six percent of the electrical corporation's
129 total capital expenditures during any given year under the
130 corporation's specific capital investment plan. At least
131 twenty-five percent of the cost of **the investments reflected**
132 **in each year's capital investment plan, which for the**
133 **purposes of this subsection shall exclude the cost of**
134 **investments in new generating units and energy storage**
135 **systems**, shall be comprised of grid modernization projects,
136 including but not limited to:

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

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

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

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

146 (5) Deployment of smart technologies (real-time,
147 automated, interactive technologies that optimize the

148 physical operation of appliances and consumer devices) for
149 metering, communications, concerning grid operations and
150 status, and distribution automation;

151 (6) Integration of smart appliances and devices;

152 (7) Deployment and integration of advanced electricity
153 storage and peak-shaving technologies, including plug-in
154 electric and hybrid electric vehicles, and thermal storage
155 air conditioning;

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

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

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

165 Project specific information need not be included for the
166 five-year period covered by the plan. Within thirty days of
167 the filing of any capital investment plan or annual update
168 to an existing plan, the electrical corporation shall host a
169 public stakeholder meeting to answer questions and receive
170 feedback about the plan. After feedback is received, the
171 electrical corporation shall file a notice with the
172 commission of any modifications to the capital investment
173 plan it has accepted. Changes to the plan, its
174 implementation, or the level of investments made shall not
175 constitute evidence of imprudence of the investments made
176 under such plan. The submission of a capital investment
177 plan under this section shall not affect in any way the
178 commission's authority with respect to the grant or denial

179 of a certificate of convenience and necessity under section
180 393.170. By February twenty-eighth following each year in
181 which the electrical corporation submits a capital
182 investment plan, the electrical corporation shall submit a
183 report to the commission detailing actual capital
184 investments made the previous year, the quantitatively
185 evaluated benefits and costs generated by each of those
186 investments that exceeded twenty million dollars, and any
187 efficiencies achieved as a result of those investments.

188 5. This section shall only apply to any electrical
189 corporation that has filed a notice with the commission of
190 the electrical corporation's election to make the deferrals
191 for which this section provides. An electrical corporation
192 may provide notice to the commission one time under this
193 subsection if such corporation has applied to the commission
194 under subsection 2 of section 386.266, provided the
195 corporation shall not concurrently utilize deferrals under
196 this subsection and the electric rate adjustments set forth
197 in subsection 3 of section 386.266. An electrical
198 corporation's election shall allow it to make the deferrals
199 provided for by subsection 2 of this section until December
200 31, **[2028] 2035**. Notwithstanding the immediately preceding
201 sentence, an electrical corporation may seek permission to
202 continue to make the deferrals provided for by subsection 2
203 of this section for an additional five years beyond December
204 31, **[2028] 2035**, by filing an application with the
205 commission seeking such permission by December 31, **[2026]**
206 **2033**, which application shall be ruled upon by the
207 commission within one hundred eighty days after its filing.
208 In deciding whether to grant such permission to continue the
209 commission shall have the authority, consistent with its
210 statutory authority outside this section, to consider such

211 factors as in its judgment it deems necessary and may
212 condition the permission on factors that are relevant to the
213 deferrals authorized by subsection 2 of this section. The
214 commission shall make the determination of whether to grant
215 such permission to continue after a hearing. An electrical
216 corporation making deferrals provided for by subsection 2 of
217 this section on and after January 1, 2024, shall be subject
218 to the revenue requirement impact cap set forth under
219 section 393.1656. Failure to obtain such commission
220 permission to continue shall not affect deferrals made
221 through the date for which permission has been granted, or
222 the regulatory and ratemaking treatment of the regulatory
223 assets arising from such deferrals as provided for by this
224 section.

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

231 7. This section shall expire on December 31, [2033]
232 **2040**, except that the amortization of the regulatory asset
233 balances arising under this section shall continue to be
234 reflected in the electrical corporation's rates and
235 remaining regulatory asset balances shall be included in the
236 electrical corporation's rate base consistent with the
237 ratemaking treatment and amortization previously approved by
238 the commission pursuant to this section.

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