

# SENATE BILL NO. 1247

102ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR BLACK.

4470S.01H

KRISTINA MARTIN, Secretary

## AN ACT

To amend chapter 393, RSMo, by adding thereto one new section relating to electric 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  
2 one new section, to be known as section 393.2200, to read as  
3 follows:

**393.2200. 1. As used in this section:**

2 (1) "Commission", the public service commission  
3 established under section 386.040;

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) "Generating facility", any electric generating  
8 plant or improvement to existing electricity generation  
9 facilities;

10 (4) "Stake", an electrical corporation's whole or  
11 fractional ownership share or leasehold or other proprietary  
12 interest in a generating facility or transmission facility  
13 that may be acquired by construction, purchase, lease or  
14 other means;

15 (5) "Transmission facility":

16 (a) Any existing line, and supporting structures and  
17 equipment, being upgraded for the transmission of  
18 electricity with an operating voltage of one hundred  
19 kilovolts or more of electricity; or

20 (b) Any new line, and supporting structures and  
21 equipment, being constructed for the transmission of  
22 electricity with an operating voltage of one hundred  
23 kilovolts or more of electricity;

24 (6) "Weighted average cost of capital", the return on  
25 rate base used to determine the revenue requirement in the  
26 electrical corporation's most recently completed general  
27 rate proceeding; provided, that in the absence of a  
28 commission determination of the return on rate base within  
29 the three-year period prior to August 28, 2024, the weighted  
30 average cost of capital shall be determined using the  
31 electrical corporation's actual capital structure as of  
32 December 31, 2023, excluding short-term debt, the electrical  
33 corporation's actual cost of long-term debt and preferred  
34 stock as of December 31, 2023, and a cost of common equity  
35 of nine and one-half percent.

36 2. (1) Prior to acquiring a stake in a transmission  
37 facility, an electrical corporation may file with the  
38 commission an application for a determination of the rate-  
39 making principles and treatment, as proposed by the  
40 electrical corporation, that will apply to the reflection in  
41 rates of the cost to be incurred by the electrical  
42 corporation to acquire such electrical corporation's stake  
43 in the transmission facility during the expected useful life  
44 of the transmission facility.

45 (2) Unless the commission determines that the  
46 electrical corporation's stake in the transmission facility  
47 is not reasonable, the commission shall issue an order  
48 setting forth the rate-making principles and treatment that  
49 will be applicable to the electrical corporation's stake in  
50 the transmission facility in all rate-making proceedings on

51 and after such time as the transmission facility is placed  
52 in service.

53 (3) The commission in all proceedings in which the  
54 cost of the electrical corporation's stake in the  
55 transmission facility is considered shall utilize the rate-  
56 making principles and treatment applicable to the  
57 transmission facility.

58 (4) If the commission fails to issue a determination  
59 within one hundred eighty days of the date an application  
60 for a determination of rate-making principles and treatment  
61 is filed, the rate-making principles and treatment proposed  
62 by the electrical corporation making such application will  
63 be deemed to have been approved by the commission and shall  
64 be binding for rate-making purposes during the useful life  
65 of the transmission facility.

66 (5) If the electrical corporation's acquisition of a  
67 stake in a transmission facility requires a certificate of  
68 convenience and necessity under the provisions of subsection  
69 1 of section 393.170, the electrical corporation may elect  
70 to request such certificate by filing an application in the  
71 same proceeding in which the application for a determination  
72 of rate-making principles and treatment is filed. In that  
73 event, if the commission fails to issue a determination  
74 regarding the application for a certificate of convenience  
75 and necessity within one hundred eighty days of the date  
76 such application is filed, the application shall be deemed  
77 to have been approved by the commission and shall be binding  
78 for all purposes.

79 3. (1) Prior to acquiring a stake in a generating  
80 facility, or prior to retiring or abandoning a generating  
81 facility, or within a reasonable time after retirement or  
82 abandonment if filing before retirement or abandonment is

83 not possible under the circumstances, an electrical  
84 corporation may file with the commission an application for  
85 a determination of the rate-making principles and treatment,  
86 as proposed by the electrical corporation, that will apply  
87 to:

88 (a) Reflection in rates of the cost to be incurred by  
89 the electrical corporation to acquire such electrical  
90 corporation's stake in the generating facility during the  
91 expected useful life of the generating facility; or

92 (b) Reflection in rates of the costs to be incurred  
93 and the cost savings to be achieved by the electrical  
94 corporation in retiring or abandoning such electrical  
95 corporation's stake in the generating facility, including,  
96 but not limited to, the reasonableness of such retirement or  
97 abandonment.

98 (2) Any electrical corporation seeking a determination  
99 of rate-making principles and treatment under subsection 3  
100 of this section shall as a part of its filing describe how  
101 its stake in the generating facility is consistent with the  
102 electrical corporation's most recent preferred plan as the  
103 term "preferred plan" is used under the provisions of  
104 Chapter 22 of 20 CSR 4240 as of December 31, 2023.

105 (3) In considering the electrical corporation's  
106 preferred plan, the commission may consider if the  
107 electrical corporation issued a request for proposal for  
108 generating facilities from a wide audience of participants  
109 willing and able to meet the needs identified under the  
110 electrical corporation's preferred plan, and if the plan  
111 selected by the electrical corporation is reasonable.

112 (4) Unless the commission determines that the  
113 electrical corporation's stake in the generating facility is  
114 not reasonable, the commission shall issue an order setting

115 forth the rate-making principles and treatment that will be  
116 applicable to the electrical corporation's stake in the  
117 generating facility in all rate-making proceedings and any  
118 securitization proceeding under section 393.1700 respecting  
119 the electrical corporation's stake in the generating  
120 facility on and after such time as the generating facility  
121 is:

122 (a) Placed in service on the utility's books; or

123 (b) Retired or abandoned.

124 (5) With respect to a new gas-fired generating  
125 facility or a new small modular nuclear generating facility,  
126 unless the commission timely elects not to set forth  
127 ratemaking principles applicable in the future on the  
128 grounds that acquiring a stake in such a generating facility  
129 is not reasonable, then notwithstanding any other provisions  
130 of this chapter to the contrary, including but not limited  
131 to the provisions of section 393.135, the electrical  
132 corporation shall be permitted, at its election, to  
133 implement a new rate adjustment mechanism, to become  
134 effective not sooner than three hundred sixty-five days  
135 after construction of such a generating facility begins and  
136 within thirty days after filing by the electrical  
137 corporation, designed to recover the return on one hundred  
138 percent of amounts recorded to construction work in progress  
139 on the utility's books for the electrical corporation's  
140 stake in such a generating facility at the weighted average  
141 cost of capital without offset, adjustment, or reduction for  
142 any other issue or consideration, provided that such return  
143 shall be in lieu of any otherwise applicable allowance for  
144 funds used during construction that would have accrued from  
145 and after the effective date of such rate adjustment  
146 mechanism. Such rate adjustment mechanism shall be subject

147 to periodic increases, without adjustment, offset, or  
148 reduction for any other issue or consideration, no more  
149 frequently than every six months, as construction of the  
150 electrical corporation's stake in such a generating facility  
151 continues and the balance of construction work in progress  
152 grows. Customers shall be charged under such rate  
153 adjustment mechanism until such time as new base rates  
154 reflecting the electrical corporation's investment in such a  
155 generating facility take effect, with such base rates to  
156 include carrying costs on any unrecovered portion of such  
157 investment at the electrical corporation's weighted average  
158 cost of capital as determined in the proceeding setting such  
159 base rates between the date such generating facility was  
160 placed in service on the electrical corporation's books and  
161 the effective date of base rates in such proceeding. Such  
162 new rate adjustment mechanism shall be permitted to remain  
163 in effect for a period not to exceed six years.

164 (6) As an alternative to the rate adjustment mechanism  
165 authorized under subdivision (5) of this subsection for a  
166 new gas-fired generating facility or a new small modular  
167 nuclear generating facility, unless the commission timely  
168 elects not to set forth ratemaking principles applicable in  
169 the future on the grounds that acquiring a stake in such a  
170 generating facility is not reasonable, the electrical  
171 corporation shall be permitted, at its election, to  
172 implement a new temporary rate, to become effective no later  
173 than thirty days after such a generating facility is placed  
174 in-service on the utility's books, designed to recover one  
175 hundred percent of the depreciation expense and the return  
176 on rate base on the electrical corporation's stake in such a  
177 generating facility at the electrical corporation's  
178 weighted average cost of capital plus applicable federal,

179 state, and local income or excise taxes, and reduced for the  
180 effects of accumulated deferred income taxes created by such  
181 a generating facility, without adjustment, offset, or  
182 reduction for any other issue or consideration. Such rate  
183 element shall be permitted to remain in effect for a period  
184 not to exceed three hundred sixty-five days. Customers  
185 shall be charged under such rate element until such time as  
186 new base rates reflecting the electrical corporation's  
187 investment in such a generating facility take effect.

188 (7) The commission in all proceedings in which the  
189 cost of the electrical corporation's stake in the generating  
190 facility is considered shall utilize the rate-making  
191 principles and treatment applicable to the generating  
192 facility or retired or abandoned generating facility.

193 (8) If the commission fails to issue a determination  
194 within one hundred eighty days of the date an application  
195 for a determination of rate-making principles and treatment  
196 is filed, the rate-making principles and treatment proposed  
197 by the electrical corporation making such application will  
198 be deemed to have been approved by the commission and shall  
199 be binding for rate-making purposes during the useful life  
200 of the generating facility, or during the period when the  
201 cost of the retired or abandoned generating facility is  
202 reflected in customer rates.

203 (9) If the electrical corporation's acquisition of a  
204 stake in a generation facility requires a certificate of  
205 convenience and necessity under the provisions of subsection  
206 1 of section 393.170, the electrical corporation may elect  
207 to request such certificate by filing an application in the  
208 same proceeding in which the application for a determination  
209 of rate-making principles and treatment is filed. In that  
210 event, if the commission fails to issue a determination

211 regarding the application for a certificate of convenience  
212 and necessity within one hundred eighty days of the date  
213 such application is filed, the application shall be deemed  
214 to have been approved by the commission and shall be binding  
215 for all purposes.

216 4. In making its determination as to whether acquiring  
217 a stake in the generating facility is reasonable and  
218 necessary or convenient for the public service under  
219 subsection 1 of section 393.170, if applicable, the  
220 commission shall be guided by the fact that it is in the  
221 interest of the state of Missouri for electrical  
222 corporations to ensure that they own and operate sufficient  
223 generating resources to serve their retail load without  
224 undue reliance on any power pool, regional transmission  
225 operator or independent system operator market, or other  
226 resources not owned or controlled by the electrical  
227 corporation.

228 5. The electrical corporation shall have one year from  
229 the effective date of the determination of the commission to  
230 notify the commission whether it will acquire a stake in the  
231 generating facility or transmission facility, or whether it  
232 will retire or abandon the generating facility.

233 6. If the electrical corporation notifies the  
234 commission within the one-year period that the electrical  
235 corporation will not construct or participate in the  
236 construction of the generating or transmission facility, or  
237 that it will not retire or abandon the generating facility,  
238 then the determination of rate-making principles pursuant to  
239 subsections 2 or 3 of this section shall be of no further  
240 force or effect, shall have no precedential value in any  
241 subsequent proceeding, and there shall be no adverse



242 presumption applied in any future proceeding as a result of  
243 such notification.

244           7. If the electrical corporation notifies the  
245 commission under subsection 5 of this section that it will  
246 acquire a stake in a generating facility and subsequently  
247 does not, or that it will retire or abandon a generating  
248 facility and subsequently does not, it will be required to  
249 notify the commission immediately by making a filing in the  
250 proceeding it initiated under this section and provide a  
251 notification of a change in preferred resource plan  
252 consistent with the requirements of 20 CSR 4240-22.080(12)  
253 as those requirements exist on December 31, 2023.

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