

FIRST REGULAR SESSION

SENATE BILL NO. 501

102ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR EIGEL.

0498S.02I

KRISTINA MARTIN, Secretary

AN ACT

To repeal section 393.135, RSMo, and to enact in lieu thereof sixteen new sections relating to clean energy generation.

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

Section A. Section 393.135, RSMo, is repealed and sixteen
2 new sections enacted in lieu thereof, to be known as sections
3 393.135, 393.1250, 393.1253, 393.1256, 393.1259, 393.1262,
4 393.1265, 393.1268, 393.1271, 393.1274, 393.1277, 393.1280,
5 393.1286, 393.1289, 393.1292, and 393.1295, to read as follows:

393.135. **1. Except as provided in subsection 2 of**
2 **this section and in sections 393.1250 to 393.1295,** any
3 charge made or demanded by an electrical corporation for
4 service, or in connection therewith, which is based on the
5 costs of construction in progress upon any existing or new
6 facility of the electrical corporation, or any other cost
7 associated with owning, operating, maintaining, or financing
8 any property before it is fully operational and used for
9 service, is unjust and unreasonable, and is prohibited.

10 **2. The commission may authorize an electrical**
11 **corporation to make or demand charges for service based in**
12 **whole or in part on additional amortizations to maintain an**
13 **electrical corporation's financial ratios that, in the**
14 **commission's judgment, are designed to assist the electrical**
15 **corporation in constructing cost-effective baseload nuclear**
16 **generating plants or facilities.**

393.1250. 1. The provisions of sections 393.1250 to
2 393.1295 shall be known and may be cited as the "Powering
3 Missouri's Future Act". Sections 393.1250 to 393.1295 shall
4 only apply to nuclear generating plants or facilities that
5 are placed into commercial operation after August 28, 2023.

6 2. Where an electrical corporation forms a subsidiary
7 corporation, limited liability company, partnership, or
8 other entity to acquire, finance, license, construct, own,
9 operate, maintain, or decommission a nuclear generating
10 plant or facility in whole or in part to supply electricity
11 to the electrical corporation's ratepayers, all capital
12 costs and expenses incurred by the subsidiary in connection
13 with the nuclear generating plant or facility shall be
14 treated, for all ratemaking and regulatory purposes, as well
15 as any other purpose pursuant to sections 393.1250 to
16 393.1295, as if the costs and expenses were incurred
17 directly by the electrical corporation and as if the plant
18 or facility itself was owned directly by the electrical
19 corporation. Moreover, for all purposes of the assessment
20 and levy of property taxes under Missouri law, including
21 chapters 137, 138, 151, and 153, the property of a
22 subsidiary of an electrical corporation owning a nuclear
23 generating plant or facility as described above shall be
24 treated as if it were owned by the electrical corporation.

25 3. Nothing in subsection 2 of this section is intended
26 to alter ownership of the project between the electrical
27 corporation and any such subsidiary or other entity for any
28 other purpose, including but not limited to, the granting of
29 any interest in such subsidiary or other entity of the
30 assets thereof in connection with any financing or otherwise.

31 4. Within thirty days after the effective date of
32 sections 393.1250 to 393.1295, the commission shall convene

33 a docket to consider the relative merits of various methods
34 to finance new nuclear generating plants and facilities,
35 including consideration of financing such plants and
36 facilities without utilization of the provisions of sections
37 393.1250 to 393.1295, financing such plants and facilities
38 using the additional amortizations provided for in
39 subsection 2 of section 393.135, financing such plants and
40 facilities using revised rates under sections 393.1265 and
41 393.1274, as well as any other method of financing such
42 plants and facilities or combination thereof. The
43 commission shall issue a report to the governor and general
44 assembly no later than August 28, 2024.

393.1253. As used in sections 393.1250 to 393.1295,
2 the following words and phrases mean:

- 3 (1) "AFUDC", the allowance for funds used during
4 construction of a facility calculated according to
5 regulatory accounting principles;
- 6 (2) "Capital costs", all capital costs including
7 applicable taxes, associated with the design, siting,
8 selection, acquisition, licensing, construction, testing,
9 and placing into service of a nuclear generating plant or
10 facility, and ancillary facilities, as well as capital costs
11 incurred to expand or upgrade the transmission grid in order
12 to connect the generating plant or facility to the
13 transmission grid, under generally accepted principles of
14 regulatory or financial accounting. This includes all costs
15 described in the Federal Energy Regulatory Commission's
16 Uniform System of Accounts Prescribed for Public Utilities
17 and Licensees Subject to the Provisions of the Federal Power
18 Act, Electric Plant Instructions, as components of
19 construction cost in 18 CFR Part 101, including AFUDC, and
20 capital costs associated with facilities or investments for

21 the transportation, delivery, storage, handling, and
22 disposal of fuel;

23 (3) "Commission", the Missouri Public Service
24 Commission;

25 (4) "Construction work in progress", the electrical
26 corporation's share of all capital costs associated with a
27 nuclear generating plant or facility, which have been
28 incurred but have not been included in the electrical
29 corporation's plant in service, and are recorded in Federal
30 Energy Regulatory Commission's Uniform System of Accounts
31 Prescribed for Public Utilities and Licensees Subject to the
32 Provisions of the Federal Power Act, Balance Sheet Chart
33 Accounts, as construction work in progress for electric
34 plants in 18 CFR Part 101, or any other account established
35 in the Uniform System of Accounts for the recording of
36 construction work in progress;

37 (5) "Cost of tax capitalized interest", for any
38 period, the sum of all federal and state income tax for such
39 period attributable to the disallowance of interest
40 deductions due to tax capitalized interest, which amount
41 shall include a gross-up for income taxes. The cost of tax
42 capitalized interest shall be computed using the following
43 formula: (tax capitalized interest times the composite
44 federal and state income tax rate used in the electrical
45 corporation's most recent ratemaking proceeding, as adjusted
46 to reflect changes, if any, to statutory tax rates
47 applicable to the period) divided by (one minus the
48 electrical corporation's composite federal and state income
49 tax rate);

50 (6) "Expedited rate revisions", a revised schedule of
51 electric rates and charges reflecting a change to the
52 electrical corporation's then current nonfuel and purchased

53 power rates and charges to add incremental revenue
54 requirements related to a nuclear generating plant or
55 facility as authorized in sections 393.1250 to 393.1295;

56 (7) "Expedited rate revision proceedings", all
57 proceedings to consider an application for revised rates or
58 review of a revised rates order;

59 (8) "Facility review application", an application for
60 a facility review order;

61 (9) "Facility review order", an order issued by the
62 commission under section 393.1265;

63 (10) "General rate proceeding", a proceeding before
64 the commission under section 386.390, or section 393.150 and
65 other applicable provisions for the establishment of new
66 electric rates and charges, and where orders in general rate
67 proceedings are referenced in sections 393.1250 to 393.1295,
68 such orders include revised rate orders issued in
69 proceedings under sections 393.1259 to 393.1280;

70 (11) "In-service expenses", all reasonably projected
71 expenses of the type recognized under generally accepted
72 principles of regulatory or financial accounting as a result
73 of a nuclear generating plant or facility commencing
74 commercial operation, including:

75 (a) Expenses associated with operating and maintaining
76 the facility, as well as taxes and governmental charges,
77 including taxes other than income taxes, applicable to the
78 facility;

79 (b) Depreciation and amortization expenses related to
80 the facility;

81 (c) The weighted average cost of capital applied to
82 the electrical corporation's investment in supplies,
83 inventories, and working capital associated with the
84 facility; and

85 (d) Other costs determined by the commission to be
86 appropriate for rate-making purposes, which may include, but
87 are not limited to, labor, supplies, insurance, general and
88 administrative expenses, and the cost of outside services;

89 (12) "Person", any individual, group, firm,
90 partnership, company, or corporation;

91 (13) "Political subdivision", any county or
92 municipality within this state;

93 (14) "Preconstruction costs", costs associated with a
94 potential nuclear generating plant or facility incurred
95 before issuance of a facility review order, which shall be
96 limited to the costs of contracting, evaluation, design,
97 engineering, and environmental and geotechnical analysis and
98 permitting, including early site permitting and combined
99 construction and operating license permitting from the
100 United States Nuclear Regulatory Commission;

101 (15) "Project development application", an application
102 for a project development order;

103 (16) "Project development order", an order issued
104 under section 393.1256;

105 (17) "Prudency", the standard to be used by the
106 commission in examining the reasonableness of management
107 decisions made by an electrical corporation, which shall be
108 that of a reasonable person having knowledge of the
109 pertinent circumstances at the time the decision was made;

110 (18) "Revised rates order", an order issued by the
111 commission under sections 393.1259 to 393.1280 approving,
112 modifying, or denying the electrical corporation's request
113 to charge revised rates under sections 393.1259 to 393.1280;

114 (19) "Tax capitalized interest", the interest that is
115 capitalized for income tax purposes under Section 263A(f) of

116 the Internal Revenue Code of 1986, as amended, or other
117 provision of federal or state income tax law;

118 (20) "Weighted average cost of capital" or "cost of
119 capital", the electrical corporation's average cost of debt
120 and equity capital:

121 (a) Incorporating the:

122 a. Return on equity;

123 b. Electrical corporation's current weighted average
124 cost of debt; and

125 c. Electrical corporation's weighted average cost of
126 preferred stock;

127 (b) Adjusting subparagraphs a and c of paragraph (a)
128 of this subdivision for the effect of current income taxes
129 by dividing them by (one minus the composite federal and
130 state income tax rate used in the electrical corporation's
131 most recent ratemaking proceeding, as adjusted to reflect
132 changes, if any, to statutory tax rates applicable to the
133 period); and

134 (c) Weighting the items described in paragraph (a) of
135 this subdivision as adjusted in paragraph (b) of this
136 subdivision according to the electrical corporation's
137 current capital structure for ratemaking purposes.

393.1256. 1. The provisions of this section apply to
2 the preconstruction costs of a nuclear generating plant or
3 facility under sections 393.1250 to 393.1295.

4 2. After August 28, 2023, the commission may include
5 preconstruction costs associated with a potential nuclear
6 generating plant or facility in an electrical corporation's
7 rate base, if the commission finds the electrical
8 corporation was prudent and reasonable in incurring such
9 preconstruction costs as part of a general rate proceeding.
10 The electrical corporation's cost of tax capitalized

11 interest shall also be included in the electrical
12 corporation's revenue requirement established in such a
13 general rate proceeding on preconstruction costs included in
14 the electrical corporation's rate base. When determining
15 any matters related to the electrical corporation's cost of
16 tax capitalized interest on preconstruction costs, the
17 commission shall establish procedures to insure that
18 ratepayers pay no more and no less than necessary to make
19 the electrical corporation whole on an after-tax cash basis.

20 3. An electrical corporation may file a project
21 development application with the commission for a nuclear
22 generating plant or facility. In evaluating a project
23 development application, the commission shall determine the
24 prudence of the decision to incur preconstruction costs for
25 the facility. If, based on a preponderance of the evidence,
26 the commission determines a project applied for in a project
27 development application is prudent, the commission may issue
28 a project development order affirming the prudence of the
29 electrical corporation's decision to incur preconstruction
30 costs not already included in the electrical corporation's
31 rate base as provided for in subsection 2 of this section.

32 4. In determining whether preconstruction costs shall
33 be reflected in rates, the commission shall decide whether
34 such costs are prudent based on a preponderance of the
35 evidence.

36 5. The commission may disallow preconstruction costs
37 for imprudence, but only to the extent that a reasonable
38 person, acting on behalf of the electrical corporation and
39 having knowledge of the pertinent facts, would have avoided
40 those costs considering the information available to the
41 electrical corporation at the time the costs were incurred.

42 6. An electrical corporation may apply to the
43 commission to abandon a project after preconstruction costs
44 have been included in the corporation's rate base. The
45 electrical corporation may ask the commission to determine
46 whether the rates being charged for the abandoned project
47 are prudent. In that event, the electrical corporation
48 shall bear the burden of proving by a preponderance of the
49 evidence that the decision to abandon the project was
50 prudent and the cost to ratepayers of abandoning the project
51 at the time the abandonment decision was made are projected
52 to be less than the cost to ratepayers of completing the
53 project. Nothing in this subsection shall be construed to
54 limit the effect of subsection 3 of this section as to a
55 project that is not abandoned or to projects abandoned under
56 the provisions of subsection 4 of section 393.1268.

57 7. If a portion of a project that is abandoned is
58 owned by a person, firm, or entity other than the electrical
59 corporation or by a subsidiary of an electrical corporation
60 as contemplated by subsection 2 of section 393.1250, the
61 electrical corporation may make an application to the
62 commission to determine whether completion of the project is
63 prudent and in the public interest.

64 8. The electrical corporation, including any
65 subsidiary, shall be required to seek commission approval to
66 sell, transfer or encumber any interest in a nuclear
67 generating plant or facility, licensed thereto, or project
68 authorized pursuant to sections 393.1250 to 393.1295. If an
69 electrical corporation or a subsidiary sells, transfers or
70 assigns its interest in a combined construction and
71 operating license, or an application therefor, from the
72 United States Nuclear Regulatory Commission applicable to a
73 nuclear generating plant or facility, and if any costs

74 associated with such combined construction and operating
75 license, or application therefor, have been included in the
76 electrical corporation's rate base as of the time of such a
77 sale, then the commission shall prescribe how the sums paid
78 by the ratepayers arising from the inclusion of such costs
79 in the electrical corporation's rate base shall be refunded
80 to ratepayers after the sale proceeds are received,
81 including interest at the electrical corporation's short-
82 term borrowing rate, pursuant to section 393.1295.

83 9. At any time after an initial project development
84 order has been issued, the electrical corporation may file
85 an amended project development application to determine the
86 prudence of any decision related to the facility.

87 10. In any commission proceeding where an electrical
88 corporation files a complete application for a project
89 development order or an amended project development order,
90 the commission shall issue an order deciding all issues
91 within one year of the date of the filing of the project
92 development order application.

93 11. Prudence determinations under this section shall
94 be final and not subject to further review in any future
95 commission proceedings.

393.1259. The commission shall establish the initial
2 filing requirements for a facility review order under
3 sections 393.1259 to 393.1280 no later than September 1,
4 2024, and may amend those requirements at any later date.

393.1262. An electrical corporation may file a
2 facility review order application with the commission after
3 the electrical corporation has received all necessary
4 licenses and permits for the nuclear generating plant or
5 facility.

393.1265. 1. The commission may, after conducting a hearing, issue a facility review order approving rate recovery for the nuclear generating plant or facility capital costs if it determines that the electrical corporation's decision to proceed with construction of the nuclear generating plant or facility is prudent and reasonable considering the information available to the electrical corporation at the time.

2. The commission shall decide all issues listed by the electrical corporation in its application for a facility review order no later than eleven months from the date of filing. The commission may require quarterly expedited rate revisions as part of the facility review order and such order shall be binding on future commissions until the construction of the nuclear generating plant or facility is complete and all prudently incurred capital costs and expenses associated with the plant are recovered in rates.

3. An electrical corporation may request expedited rate revisions reflecting the electrical corporation's current investment in the nuclear generating plant or facility and the commission shall determine just and reasonable rates using criteria previously established by the commission or by using all the factors, allocations and rate designs as determined in the electrical corporation's last rate order.

4. An electrical corporation may petition the commission in a new docket for an order modifying any part of a facility review order issued under this section. The electrical corporation shall have the burden of proving the relief requested is:

(1) For good cause;

(2) Prudent; and

33 (3) Just and reasonable under the circumstances.

34 If the commission determines the electrical corporation
35 has met its burden of proof, the commission shall grant the
36 relief requested.

393.1268. 1. Once the commission issues a facility
2 review order, the facility review order constitutes a final
3 and binding determination that the costs of a nuclear
4 generating plant or facility are properly includable in
5 rates as and when they are incurred, and are prudently
6 incurred so long as the facility is constructed, or is being
7 constructed, within the parameters of:

8 (1) The approved construction schedule including
9 contingencies; and

10 (2) The approved capital cost estimates including
11 contingencies.

12 2. So long as the facility is constructed or is being
13 constructed in accordance with the approved schedules,
14 estimates, and projections set forth in a facility review
15 order, as adjusted by the inflation indices adopted by the
16 facility review order, an electrical corporation shall be
17 allowed to recover its capital costs related to the facility
18 through expedited revised rate reviews or general rate
19 proceedings.

20 3. Based on a preponderance of the evidence, the
21 commission may disallow capital costs to the extent that the
22 failure by the electrical corporation to avoid the
23 deviation, or to minimize the resulting expense, was
24 imprudent considering the information available at the time
25 that the electrical corporation could have acted to avoid
26 the deviation or minimize its effect. Significant weather
27 delays, natural disasters, changes in supplier costs,
28 unavailability of supply of equipment, labor or materials,

29 regulatory changes, or other factors beyond the electrical
30 corporation's control shall not result in any disallowance
31 of costs.

32 4. If any provision of section 393.135 or sections
33 393.1250 to 393.1295 that affects an electrical
34 corporation's ability to recover capital costs, including
35 AFUDC thereon, for a project involving a nuclear generating
36 plant or facility is abrogated, repealed, materially amended
37 or limited by subsequent action of the general assembly,
38 initiative petition, constitutional amendment, or judicial
39 decision before a facility review order has been issued, an
40 electrical corporation may abandon the project and seek
41 recovery of its proportionate share of capital costs,
42 including AFUDC, incurred by the electrical corporation in
43 reliance on the provisions of section 393.135 or sections
44 393.1250 to 393.1295 through general rate proceedings.

45 5. If the commission adopts a facility review order
46 for a nuclear generating plant or facility prior to the time
47 any such provision of sections 393.1250 to 393.1295 is
48 abrogated, repealed, materially amended, or limited by
49 subsequent action of the general assembly, initiative
50 petition, constitutional amendment, or judicial decision,
51 the electrical corporation shall be permitted to recover its
52 expenses through the commission-authorized rates as if no
53 abrogation, repeal, material amendment, or material
54 limitation had occurred.

393.1271. 1. The commission may require an electrical
2 corporation to file periodic reports with the commission as
3 part of a facility review order and may prescribe
4 information to be provided in those reports.

5 2. The commission shall monitor the construction of
6 the nuclear generating plant or facility and expenditure of

7 capital through review and audit of reports under this
8 section, and shall have the right to inspect the books and
9 records regarding the plant or facility and the physical
10 progress of construction.

393.1274. 1. In the event the commission does not
2 prescribe a manner for expedited rate revisions, an
3 electrical corporation may file with the commission requests
4 for the approval of expedited rate revisions three months
5 after issuance of a facility review order and every three
6 months thereafter. Expedited rate revisions made by the
7 commission shall include the electrical corporation's
8 additional investment in the facility reflected on the
9 accounting books and records of the electrical corporation
10 that were not previously included in rates.

11 2. In the event the commission does not prescribe a
12 different means of calculating revised rate increases as
13 part of the facility review order under subsection 3 of
14 section 393.1265, or for additional revised rates
15 implemented under a request made under subsection 1 of this
16 section, an electrical corporation shall be allowed to
17 recover through revised rates by adding:

18 (1) Its weighted average cost of capital applied to
19 the outstanding balance of construction work in progress,
20 including construction work in progress arising from
21 preconstruction costs that have not previously been included
22 in the electrical corporation's rate base; and

23 (2) Its cost of tax capitalized interest. When
24 determining any matters related to the electrical
25 corporation's cost of tax capitalized interest, the
26 commission shall establish procedures to insure that
27 ratepayers pay no more and no less than necessary to make
28 the electrical corporation whole on an after-tax cash basis.

29 The commission shall prescribe how these expenses shall be
30 stated on customers' bills.

31 3. Expedited rate revisions approved under subsection
32 3 of section 393.1265 as part of the issuance of the
33 facility review order, and expedited rates filed under
34 subsection 1 of this section, shall become effective
35 fourteen days after the filing of rate schedules reflecting
36 the new rates to be charged to each rate class. Such rates
37 shall be collected by the electrical corporation on an
38 interim basis subject to refund as provided for in
39 subsection 6 of this section. Any construction work in
40 progress for which the weighted average cost of capital is
41 not being recovered through revised rates shall continue to
42 earn AFUDC and may be included in rates through future
43 filings. Expedited rate revisions filings under subsection 1
44 of this section shall include the most recent monitoring
45 report filed under subsection 1 of section 393.1271 updated
46 to reflect information current as of the date specified in
47 the filing. For expedited rate revisions filings under
48 subsection 1 of this section, the commission shall provide
49 notice of the revised rate filings to all parties to the
50 electrical corporation's facility review application
51 proceeding and permit the intervention of any party filing
52 an application for intervention within two weeks of the
53 filing if such a party meets the standard for intervention
54 contained in the commission's rules. The commission shall
55 not extend any other dates contained herein.

56 4. The commission staff shall review and audit the
57 revised rates filed under subsection 1 of this section or
58 subsection 3 of section 393.1265 and the information
59 supporting such rates to determine if the revised rates were
60 calculated in accordance with the facility review order. No

61 later than three months after the date of expedited rate
62 review filings, the commission staff shall file with the
63 commission and serve on all parties of record a verified
64 report indicating the results of its review and audit,
65 propose any changes to the expedited rate revisions filing
66 or the information supporting them that the commission staff
67 determines to be necessary to comply with the terms of the
68 facility review order.

69 5. The commission may prescribe procedures for
70 receiving written and oral comments related to the report.
71 The commission staff may revise its report considering
72 comments filed.

73 6. Within six months of an expedited revised rate
74 revision filing, the commission shall enter an order
75 deciding the issues in accordance with the facility review
76 order, or specifying any variance between the expedited
77 rates established and the facility review order. If
78 expedited rate revisions are requested in connection with
79 the issuance of the facility review order, the commission
80 shall enter an order respecting revised rates within the
81 deadline established under subsection 2 of section 393.1265
82 for granting or denying the facility review order
83 application. In the event the commission fails to issue an
84 order deciding any expedited rate revisions filing request
85 by the prescribed deadline, the revised rates filed by the
86 electrical corporation shall be deemed final, and no longer
87 subject to refund, subject, however, to the final audit
88 provisions of subsection 10 of this section. If the
89 commission determines the electrical corporation recovered
90 revenues above those authorized by a facility review order,
91 the electrical corporation shall credit customer's bills for
92 the excess recovery over the following four monthly billing

93 cycles, with interest at the electrical corporation's short-
94 term borrowing rate.

95 7. The electrical corporation seeking a rate increase
96 through an expedited rate revisions filing shall promptly
97 provide notice of any proposed increase to its customers in
98 a manner prescribed by the commission.

99 8. Notwithstanding other provisions of this section to
100 the contrary, the electrical corporation may file a final
101 set of revised rates for the nuclear generating plant or
102 facility to go into effect upon commercial operation of the
103 facility, the filing to be made no sooner than seven months
104 before the projected date that the facility is to commence
105 commercial operations. In the final revised rates, the
106 electrical corporation may include recovery of the weighted
107 average cost of capital applied to the actual capital costs
108 associated with the facility and projected capital costs
109 through the end of the period of construction of the
110 facility that have not previously been included in rates.
111 Rate adjustments to reflect the revenue requirement related
112 to in-service expenses shall be included in the final
113 revised rates and shall be based on the electrical
114 corporation's most current budget estimates of those
115 expenses for the succeeding twelve-month period at the time
116 the final revised rates are filed or actual expenses, if
117 available. The final revised rates filing shall be
118 processed in the same manner and fashion as other revised
119 rates filings made under subsection 1 of this section.

120 9. If an electrical corporation decides to abandon the
121 project after a facility review order approving expedited
122 rate revisions for the project has been issued, then the
123 capital costs related to the project, whether incurred
124 before or after the effective date of sections 393.1250 to

125 393.1295, shall nonetheless be recoverable, provided that as
126 to the decision to abandon the project, the electrical
127 corporation shall bear the burden of proving by a
128 preponderance of the evidence that the decision was prudent
129 and that the cost to ratepayers of abandoning the project at
130 the time the abandonment decision was made are projected to
131 be less than the cost to ratepayers of completing the
132 project. Without limiting the effect of subsection 1 of
133 section 393.1268 as to a nuclear generating plant or
134 facility that is not abandoned, recovery of capital costs
135 may be disallowed as a result of abandoning a facility only
136 to the extent that the failure by the electrical corporation
137 to avoid the allegedly imprudent costs, or to minimize the
138 magnitude of the costs, was imprudent considering the
139 information available at the time that the electrical
140 corporation could have acted to avoid or minimize the
141 costs. The commission may order the amortization and
142 recovery of the capital costs of the abandoned facility as
143 part of an order adjusting rates under this section or in a
144 general rate proceeding for the electrical corporation. The
145 commission's order shall provide that the unamortized
146 capital costs shall bear interest at the electrical
147 corporation's AFUDC rate, and shall be fully amortized
148 within a period not to exceed one and one-half times the
149 period during which the costs that are the subject of the
150 amortization were incurred. If a portion of the project
151 that is abandoned is owned by a person, firm, or entity
152 other than the electrical corporation or by a subsidiary of
153 an electrical corporation as contemplated by subsection 2 of
154 section 393.1250, only that portion of the construction
155 costs, with AFUDC thereon, that are associated with the
156 electrical corporation's or its subsidiary's ownership

157 interest in the project shall be recovered by the electrical
158 corporation hereunder.

159 10. After completion of a facility subject to a
160 facility review order, the commission staff shall conduct an
161 audit of the electrical corporation's revenues, expenses,
162 and rates. The audit shall be based on a twelve-month test
163 period ending no later than December thirty-first of the
164 calendar year following the year in which the facility
165 entered commercial operation and shall be filed within four
166 months of the conclusion of the test period. The sole
167 purpose of the audit shall be to determine if the costs
168 actually recovered through all revised rates orders equal
169 the actual capital costs for the new facility and the in-
170 service expenses. Any over-recovery or under-recovery
171 determined by the commission to have existed shall be
172 credited to or recovered from ratepayers, as the case may
173 be, through subsequent bill credits or surcharges, with
174 interest at the utility's short-term borrowing rate.

393.1277. The provisions of this section and section
2 393.1280 shall supplement the provisions of section 386.500,
3 and shall control to the extent inconsistent with section
4 386.500. Within the time allowed for seeking rehearing of a
5 commission order under section 386.500, after issuance of a
6 revised rates order under section 393.1265 or 393.1274, or
7 within thirty days of the failure by the commission to issue
8 a revised rates order as required under subsection 6 of
9 section 393.1274, any aggrieved party may apply to the
10 commission for rehearing of the revised rates order or of
11 the failure to issue a revised rates order.

393.1280. 1. Proceedings under this section are
2 limited to issues related to whether the revised rates filed
3 by the electrical corporation comply with the terms of the

4 commission order issued under section 393.1265 and with the
5 specific requirements of section 393.1274. Other matters
6 determined in orders issued under sections 393.1256 to
7 393.1280 or in a general rate proceeding are not subject to
8 review in proceedings under this section or section 393.1277.

9 2. If the final order increases the amount of capital
10 costs which the electrical corporation may recover through
11 revised rates, the AFUDC booked on those capital costs
12 between the issuance of the revised rates order and the
13 final order shall remain on the books of the electrical
14 corporation and shall not be reversed or adjusted.
15 Surcharges related to under collection of costs shall be
16 calculated without consideration of AFUDC amounts recognized
17 on the capital costs during this period.

18 3. If the final order reduces the amount of capital
19 costs which the electrical corporation may recover through
20 revised rates for reasons other than the conclusive finding
21 that the capital costs were imprudently incurred, then the
22 electrical corporation may resume accrual of AFUDC on any
23 capital costs that were not included in expedited rate
24 revisions and may book an amount of AFUDC equal to the AFUDC
25 not recognized during the time the rates approved in the
26 revised rates order were in effect.

393.1286. 1. Except as otherwise specified in
2 sections 393.1250 to 393.1295, all procedural requirements
3 that apply to general rate proceedings by law or regulation
4 shall apply to proceedings under sections 393.1250 to
5 393.1295, and to the judicial review of orders issued under
6 sections 393.1250 to 393.1295. The requirements related to
7 the form and content of filings to initiate general rate
8 proceedings shall only apply, however, to proceedings that
9 are combined with a general rate proceeding.

10 2. As to proceedings under sections 393.1250 to
11 393.1295 that are combined with a general rate proceeding,
12 the procedural requirements related to general rate
13 proceedings shall apply to the extent not inconsistent with
14 sections 393.1250 to 393.1295.

15 3. In proceedings under sections 393.1250 to 393.1295,
16 the electrical corporation shall have the burden of proving
17 the prudence of its decision to incur preconstruction costs
18 under section 393.1256 and to establish the appropriateness
19 of a facility review order under sections 393.1265 to
20 393.1274.

21 4. Commission determinations under sections 393.1256
22 and 393.1265 to 393.1274 shall not be challenged, reopened,
23 or reviewed in any subsequent commission proceeding,
24 including in any general rate proceeding, except that, the
25 public counsel or any corporation or person or public
26 utility interested therein shall have the right to challenge
27 such determinations via an application for rehearing of the
28 order making such determinations under section 386.500.

 393.1289. Courts of this state shall have the power to
2 review commission determinations made under sections
3 393.1256 and 393.1265 to 393.1274 in proceedings under
4 sections 386.510 and 386.540; provided that no court of this
5 state shall have jurisdiction to hear or determine any
6 issue, case, or controversy concerning any matter which was
7 or could have been determined in a proceeding before the
8 commission.

 393.1292. Notwithstanding any other provision of law
2 to the contrary, no state or regional agency, or political
3 subdivision or other local government may require any
4 approval, consent, permit, certificate or other condition
5 for the construction, operation, or maintenance of a nuclear

6 generating plant or facility authorized by a certificate of
7 public convenience and necessity issued by the commission,
8 except that the department of natural resources may require
9 permits in accordance with applicable state statutes, rules,
10 regulations, or standards promulgated within its authority
11 and within its delegated federal authority.

393.1295. 1. If, prior to a nuclear generating plant
2 or facility being fully operational and used, an electrical
3 corporation sells or transfers a license or permit
4 associated with such plant or facility, or sells or
5 transfers the nuclear generating plant or facility itself,
6 the commission shall require that any proceeds related to
7 such sale or transfer be refunded to ratepayers with
8 interest, to the extent any costs incurred by the
9 corporation to develop the license, permit, plant, or
10 facility have been recovered in rates.

11 2. Any proceeds related to an electrical corporation
12 from the sale or transfer of a license or permit associated
13 with a nuclear generating plant or facility or the sale or
14 transfer of a nuclear generating plant or facility, other
15 than a sale or transfer addressed in subsection 1 of this
16 section, shall be treated by the commission as proceeds from
17 the sale or transfer of used and useful assets.

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