

SENATE COMMITTEE SUBSTITUTE

FOR

SENATE BILL NO. 186

AN ACT

To repeal section 393.135, RSMo, and to enact in lieu thereof three new sections relating to electrical corporations.

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

Section A. Section 393.135, RSMo, is repealed and three new sections enacted in lieu thereof, to be known as sections 393.135, 393.1080, and 393.1900, to read as follows:

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

2. (1) An electrical corporation shall be permitted, subject to the limitations in this subsection, to include construction work in progress for any new natural gas-generating unit in rate base. The inclusion of construction work in progress allowed under this subsection shall be in lieu of any otherwise applicable allowance for funds used during construction that would have accrued from and after the effective date of new base rates that reflect inclusion of the construction work in progress in rate base. The commission shall determine, in a proceeding under section 393.170, the amount of construction work in progress that may be included in rate base. The amount shall be limited

by the estimated cost of such project and project expenditures made within the estimated construction period for such project. Base rate recoveries arising from inclusion of construction work in progress in base rates are subject to refund, together with interest on the refunded amount at the same rate as the rate of interest for delinquent taxes determined by the director of revenue in accordance with section 32.065, if, and to the extent the commission determines, in a subsequent complaint or general rate proceeding, that construction costs giving rise to the construction work in progress included in rate base were imprudently incurred or if the project for which construction costs have been included in the rate base is not placed in service within a reasonable amount of time, as determined by the commission. Return deferred under subdivision (2) of subsection 3 of section 393.1400 for plant that has been included in base rates as construction work in progress shall offset the amounts deferred under section 393.1400.

(2) This subsection shall expire on December 31, 2035, unless the commission determines, after a hearing conducted in 2035, upon a submission from an electrical corporation of an application requesting and demonstrating that good cause exists to extend the effectiveness of this subsection through December 31, 2045. The secretary of the commission shall notify the revisor of statutes when the conditions set forth for the extension of this subsection have been met.

393.1080. 1. The commission may require electrical corporations to provide documentation annually, in a format determined by the commission, reflecting its plan to own or have rights to sufficient capacity to meet its capacity obligations for the upcoming planning year and each of the three subsequent planning years. Electrical corporations

shall submit such documentation, which shall include its actual capacity position for the upcoming planning year and a reasonable forecast of its capacity position for the three subsequent planning years consistent with resource adequacy requirements of the appropriate regional transmission organization or independent system operator or commission, including by season or other applicable period, within thirty days after the appropriate regional transmission organization or independent system operator or commission, if applicable, makes a final determination as to the electrical corporation's resource adequacy requirements for the upcoming planning year.

2. The commission may require any additional audits and reporting as the commission considers necessary to determine if an electrical corporation's plan provides for electrical corporation ownership or contractual rights to sufficient capacity for the planning year beginning four years after the beginning of the current planning year.

3. If an electrical corporation fails to have sufficient capacity for the upcoming planning year and it is determined by the commission to be the result of the electrical corporation's imprudence, the commission may disallow, after a hearing, any associated costs related to said failure in a future proceeding. The commission may require submission of a plan within six months to resolve any expected capacity deficiency for the subsequent three planning years.

4. As used in this section, the following terms shall mean:

(1) "Appropriate regional transmission organization or independent system operator", the Midcontinent Independent System Operator or the Southwest Power Pool, or any successor organization;

(2) "Sufficient capacity", owned or contracted-for capacity that meets the planning reserve margin or successor metric established by the appropriate regional transmission organization or independent system operator or, in the case of an electrical corporation that is not a participant in a regional transmission organization or independent system operator, that meets the planning reserve margin or successor metric established by the commission.

5. The commission may promulgate rules necessary to implement the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2025, shall be invalid and void.

393.1900. 1. The commission shall, by August 28, 2026, and every four years or as needed thereafter, commence an integrated resource planning proceeding for electrical corporations. As part of such proceeding, the commission shall:

(1) Identify any required planning reserve margins and applicable local clearing requirements, and any proposed planning reserve margins and local clearing requirements which are scheduled to take effect within a relevant future timeframe;

(2) Identify significant existing state or federal environmental regulations, laws, or rules and identify how

each such regulation, law, or rule may apply to electrical corporations in this state;

(3) Identify separately significant proposed state or federal environmental regulations, laws, or rules and identify how each such regulation, law, or rule may apply to electrical corporations in this state;

(4) Establish an alternative resource plan or plans that shall be included in an electrical corporation's integrated resource plan filing pursuant to subsection 3 of this section, and the factors that each electrical corporation may take into account in developing such plans, including, but not limited to, all of the following:

(a) Projected planning reserve margins and local clearing requirements and the environmental regulations, laws, or rules pursuant to subdivisions (1) and (2) of this subsection, respectively;

(b) Projections of future loads including both energy and capacity over the planning period;

(c) The supply-side and demand-side resources that may reasonably address any need for additional energy and capacity, including, but not limited to, the type of generation technology for any proposed generation facility, projected load impact due to electrification or economic development projects, and projected load management and demand response savings;

(d) The projected cost of different types of technologies and fuel used for electric generation; and

(e) Any other factors the commission may order to be considered;

(5) Identify or designate any software, data standards, and formatting to be used in modeling the alternative resource plan or plans pursuant to subdivision (4) of this subsection;

(6) Complete such proceeding no less than eighteen months prior to the first integrated resource plan filing pursuant to subsection 2 of this section.

2. Not later than August 28, 2027, the commission shall publish a schedule for electrical corporations to file an integrated resource plan every four years, with the first integrated resource plan or plans filing to occur not before the first day of the nineteenth month after publication of such schedule. Each electrical corporation shall, pursuant to the published schedule, file with the commission an integrated resource plan that includes an alternative resource plan or plans meeting the requirements of subdivision (3) of subsection 1 of this section, and such other alternative resource plans as the electrical corporation deems appropriate. All alternative resource plans shall cover a minimum sixteen-year planning horizon. All such plans shall reflect projections of an electrical corporation's load obligations and how under each such plan the electrical corporation would reliably meet its projected load obligations over such periods consistent with applicable planning reserve margins, local clearing requirements, and applicable state and federal environmental regulations, laws, or rules.

3. Without limiting the requirements set forth in subsection 2 of this section, an electrical corporation's integrated resource plan filing shall include:

(1) Information regarding generating units in the electrical corporation's existing portfolio, including, but not limited to, unit characteristics, current and expected accredited capacity by season, licensing status, current depreciation rates for each generating unit, currently expected retirement dates and, if applicable, any remaining useful life of each generating unit, and identification of

potential capital projects that are reasonably expected to result in the extension of the retirement date of each generating unit;

(2) Plans for meeting current and future generation attribute needs, with estimates of the capital and operating and maintenance costs over the planning horizon for all proposed construction and major investments in new generating units, including costs associated with transmission or distribution infrastructure that would be required to integrate such investments into the electrical corporation's system;

(3) Identification of the generation attribute necessary for the provision of safe and adequate service at just and reasonable rates;

(4) Analysis of the cost, performance, expected accredited capacity by season, and viability of all reasonable options available to meet projected generation attribute needs, including, but not limited to, existing electric generation facilities, and an explanation why an electrical corporation selected the options outlined in the plan;

(5) Analysis of alternative resource plans to test risk factors identified by the electrical corporation;

(6) An explanation of how the electrical corporation uses capacity expansion optimization software for the development of alternative resource plans;

(7) Projections of rate impacts including rate impacts from fuel costs of the top four alternative resource plans including the preferred plan for the periods covered by the plan;

(8) Forecasts of the electrical corporation's sales by hour under reasonable scenarios;

(9) The types of generation technologies proposed for generation facilities contained in the plans and the proposed accredited capacity of the generation facilities as estimated by the corporation and the relevant regional transmission organization or independent system operator, including projected fuel costs under reasonable scenarios;

(10) An analysis of potential new or upgraded electric transmission and distribution options for the electrical corporation;

(11) Analysis of the projected firm gas transportation contracts or natural gas storage the electrical corporation will hold to provide an adequate supply of fuel to new generation facilities;

(12) Projected load management, demand response impact, and peak demand reduction for the electrical corporation, including, but not limited to, the magnitude of expected load impacts during the anticipated hours, seasons, and years and the projected costs for such plans;

(13) An explanation of how the electrical corporation will comply with all applicable state and federal environmental regulations, laws, and rules, and the projected costs of complying with those regulations, laws, and rules;

(14) Expected resource planning and system impacts of contemplated programs and mechanisms associated with new load, reduced load, or retained load associated with economic development rates or riders and programs offered in accordance with section 393.1075, as well as other programs offered under current law;

(15) Results from a request for information or proposals to provide any new supply-side resources needed to serve the corporation's projected electric load, applicable planning reserve margin, and local clearing requirement

during the initial four-year planning period. The request for information or proposals may define qualifying performance standards, contract terms, technical competence, capability, reliability, creditworthiness, past performance, and other criteria that responses or respondents to the request for information shall meet in order to be considered by the corporation in its integrated resource plan.

Respondents to a request for information or proposals may request that certain proprietary information be treated as confidential or highly confidential pursuant to the commission's governing rules. A corporation that issues a request for information or proposals under this subsection shall use the resulting information or proposals to inform its integrated resource plan and include all of the submitted information or proposals as attachments to its integrated resource plan filing;

(16) Selection of a preferred resource plan;

(17) Delineation of an implementation plan covering a four-year implementation period ending three hundred sixty-five days after the electrical corporation's next-scheduled quadrennial integrated resource plan filing, which shall specify the construction or acquisition by the utility of specific supply-side resources or a specified quantity of supply-side resources by supply-side resource type, or both, for which construction or acquisition is planned to commence within said four-year implementation period; and

(18) Any other information that the commission may specify by rule.

4. The commission shall, after a hearing is conducted, issue a report and order no later than three hundred sixty days after the electrical corporation files an integrated resource plan under this section, unless the commission grants itself an extension for good cause for the issuance

of the report and order. Up to one hundred fifty days after an electrical corporation makes its initial integrated resource plan filing, the electrical corporation may file an update of the cost estimates provided under subdivision (2) of subsection 3 of this section if the cost estimates have materially changed. An electrical corporation shall not modify any other aspect of the initial integrated resource plan filing unless the commission grants the electrical corporation the ability to do so. The commission's report and order shall determine whether the electrical corporation has submitted sufficient documentation and selected a preferred resource plan that represents a reasonable and prudent means of meeting the electrical corporation's load serving obligations at just and reasonable rates. In making the determination, the commission shall consider whether the plan appropriately balances all of the following factors:

(a) Resource adequacy to serve anticipated peak electric load and seasonal peak demand forecasts, applicable planning reserve margin, local clearing requirements, and the role of energy and capacity markets;

(b) Reliability;

(c) Rate impacts;

(d) Overall cost-effectiveness in providing service;

(e) Commodity price risks;

(f) Diversity of supply-side resources;

(g) Competitive pricing;

(h) Participation in regional transmission organization markets; and

(i) Compliance with applicable state and federal environmental regulations.

5. (1) If the commission determines that the preferred resource plan is a reasonable and prudent means of meeting the electrical corporation's load serving

obligations, such determination shall constitute the commission's permission for the electrical corporation to construct or acquire the specified supply-side resources, or a specified quantity of supply-side resources by supply-side resource type, or both, identified by the commission, that were reflected in the implementation plan submitted under subdivision (17) of subsection 3 of this section, provided that construction commences or the acquisition agreement is executed within the four-year implementation period. With respect to such resources, when the electrical corporation files an application for a certificate of convenience and necessity to authorize construction or acquisition of such resource or resources pursuant to subsection 1 of section 393.170, the commission shall be deemed to have determined that the supply-side resources for which such a determination was made are necessary or convenient for the public interest. In such a certificate of convenience and necessity proceeding, the commission's inquiry shall be limited to considering the electrical corporation's qualifications to construct and operate the resources, the electrical corporation's ability to finance the construction or acquisition of the resources, and siting considerations. The commission shall take all reasonable steps to expedite such a certificate of convenience and necessity proceeding and shall issue its decision in such a proceeding within one hundred twenty days of the date that the electrical corporation files its application. An electrical corporation shall annually, or more frequently if required by the commission, report to the commission the status of supply-side resources being implemented during the implementation period.

(2) If the commission determines that the preferred resource plan, in whole or in part, is not a reasonable and

prudent means of meeting the electrical corporation's load serving obligations, the commission shall have the authority to specify in its report and order the deficiencies in the preferred resource plan and may require the electrical corporation to make a further filing within sixty days after issuance of the report and order addressing the deficiencies and the electrical corporation may propose modifications to its original preferred resource plan. If such an order requiring a further filing by the electrical corporation is issued, the commission's report and order issued under this subsection shall not be final for purposes of rehearing pursuant to section 386.500 or an appeal pursuant to section 386.510. Other parties to the integrated resource plan docket shall have sixty days to respond to the electrical corporation's further filing, unless the commission grants an extension for good cause to respond to the electrical corporation's further filing. Within sixty days after the deadline for such other parties' filings, the commission shall issue a report and order, which shall be final for purposes of rehearing pursuant to section 386.500, and appeal pursuant to section 386.510, indicating whether the deficiencies have been cured by the electrical corporation's further filing and the commission may approve the electrical corporation's modified preferred resource plan and may approve specific supply-side resources, or a specified quantity of supply-side resources by supply-side resource type, or both. If the commission finds continued deficiencies in the electrical corporation's modified preferred resource plan:

(a) The commission may initiate a complaint proceeding pursuant to the provisions of section 393.270;

(b) The electrical corporation shall not be eligible for a limited inquiry in any proceeding under section

393.170 as set forth in subdivision (1) of this subsection for any resource additions not approved by the commission; and

(c) The electrical corporation shall not be eligible for construction work in progress as set forth in subdivision (3) of this subsection for any resource additions not approved by the commission.

(3) Notwithstanding section 393.135 to the contrary, if approved in a proceeding granting permission and approval under subsection 1 of section 393.170, an electrical corporation may be permitted to include in the corporation's rate base any amounts recorded to construction work in progress for the investments for which permission is given under subdivision (1) of subsection 5 of this section. The inclusion of construction work in progress shall be in lieu of any otherwise applicable allowance for funds used during construction that would have accrued from and after the effective date of new base rates that reflect inclusion of the construction work in progress in rate base. The commission shall determine, in a proceeding under section 393.170, the amount of construction work in progress that may be included in rate base. The amount shall be limited by:

(a) The estimated cost of such project; and

(b) Project expenditures made within the estimated construction period for such project. Base rate recoveries arising from inclusion of construction work in progress in base rates are subject to refund, together with interest on the refunded amount at the same rate as the rate of interest for delinquent taxes determined by the director of revenue in accordance with section 32.065, if and to the extent the commission determines, in a subsequent complaint or general rate proceeding, that construction costs giving rise to the

construction work in progress included in rate base were imprudently incurred. Return deferred under subdivision (2) of subsection 3 of section 393.1400 for plant that has been included in base rates as construction work in progress shall offset the amounts deferred under section 393.1400.

6. The commission shall promulgate rules necessary to implement the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2025, shall be invalid and void.

7. As used in this section, the following terms shall mean:

(1) "Firm gas transportation", an anticipated agreement entered into between the electrical corporation and a natural gas transmission provider for a set period of time to provide firm delivery of natural gas to an electric generation facility;

(2) "Generation attribute", the capacity, energy, and other generating unit capabilities used in regional energy and capacity markets to differentiate services that can be provided by various types of generating units.