

SENATE BILL NO. 51

103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR BLACK.

0967S.01I

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Section A. Section 393.1400, RSMo, is repealed and one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;

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

19 (5) "Weighted average cost of capital", the return on
20 rate base used to determine the revenue requirement in the
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]~~ **2024**, the
25 weighted average cost of capital shall be determined using
26 the electrical corporation's actual capital structure as of
27 December 31, ~~[2021]~~ **2023**, excluding short-term debt, the
28 electrical corporation's actual cost of long-term debt and
29 preferred stock as of December 31, 2021, and a cost of
30 common equity 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]~~ **ninety** 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 provided
38 for by subsection 5 of this section by that date, or on the
39 date such election is made if the election is made after
40 August 28, 2018. In each general rate proceeding concluded
41 after August 28, 2018, the balance of the regulatory asset
42 as of the rate-base cutoff date shall, subject only to the
43 cap provided for in section 393.1655 or section 393.1656, as
44 applicable, be included in the electrical corporation's rate
45 base without any offset, reduction, or adjustment based upon
46 consideration of any other factor, other than as provided
47 for in subdivision (2) of this subsection, with the
48 regulatory asset balance arising from deferrals associated
49 with qualifying electric plant placed in service after the
50 rate-base cutoff date to be included in rate base in the

51 next general rate proceeding. The expiration of this
52 section shall not affect the continued inclusion in rate
53 base and amortization of regulatory asset balances that
54 arose under this section prior to such expiration.

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

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

70 3. (1) Depreciation expense deferred under this
71 section shall account for all qualifying electric plant
72 placed into service less retirements of plant replaced by
73 such qualifying electric plant.

74 (2) Return deferred under this section shall be
75 determined using the weighted average cost of capital
76 applied to the change in plant-related rate base caused by
77 the qualifying electric plant, plus applicable federal,
78 state, and local income or excise taxes. In determining the
79 return deferred, the electrical corporation shall account
80 for changes in all plant-related accumulated deferred income
81 taxes and changes in accumulated depreciation, excluding
82 retirements.

83 4. Beginning February 28, 2019, and by each February
84 twenty-eighth thereafter while the electrical corporation is
85 allowed to make the deferrals provided for by subsection 2
86 of this section, electrical corporations that defer
87 depreciation expense and return authorized under this
88 section shall submit to the commission a five-year capital
89 investment plan setting forth the general categories of
90 capital expenditures the electrical corporation will pursue
91 in furtherance of replacing, modernizing, and securing its
92 infrastructure. The plan shall also include a specific
93 capital investment plan for the first year of the five-year
94 plan consistent with the level of specificity used for
95 annual capital budgeting purposes. For each project in the
96 specific capital investment plan on which construction
97 commences on or after January first of the year in which the
98 plan is submitted, and where the cost of the project is
99 estimated to exceed twenty million dollars, the electrical
100 corporation shall identify all costs and benefits that can
101 be quantitatively evaluated and shall further identify how
102 those costs and benefits are quantified. For any cost or
103 benefit with respect to such a project that the electrical
104 corporation believes cannot be quantitatively evaluated, the
105 electrical corporation shall state the reasons the cost or
106 benefit cannot be quantitatively evaluated, and how the
107 electrical corporation addresses such costs and benefits
108 when reviewing and deciding to pursue such a project. No
109 such project shall be based solely on costs and benefits
110 that the electrical corporation believes cannot be
111 quantitatively evaluated. Any quantification for such a
112 project that does not produce quantified benefits exceeding
113 the costs shall be accompanied by additional justification
114 in support of the project. For each of the first five years

115 that an electrical corporation is allowed to make the
116 deferrals provided for by subsection 2 of this section, the
117 purchase and installation of smart meters shall constitute
118 no more than six percent of the electrical corporation's
119 total capital expenditures during any given year under the
120 corporation's specific capital investment plan. At least
121 twenty-five percent of the cost of **the investments reflected**
122 **in** each year's capital investment plan, **which for the**
123 **purposes of this subsection shall exclude the costs of**
124 **investments in new generating units and energy storage**
125 **systems**, shall be comprised of grid modernization projects,
126 including but not limited to:

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

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

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

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

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

141 (6) Integration of smart appliances and devices;

142 (7) Deployment and integration of advanced electricity
143 storage and peak-shaving technologies, including plug-in
144 electric and hybrid electric vehicles, and thermal storage
145 air conditioning;

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

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

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

155 Project specific information need not be included for the
156 five-year period covered by the plan. Within thirty days of
157 the filing of any capital investment plan or annual update
158 to an existing plan, the electrical corporation shall host a
159 public stakeholder meeting to answer questions and receive
160 feedback about the plan. After feedback is received, the
161 electrical corporation shall file a notice with the
162 commission of any modifications to the capital investment
163 plan it has accepted. Changes to the plan, its
164 implementation, or the level of investments made shall not
165 constitute evidence of imprudence of the investments made
166 under such plan. The submission of a capital investment
167 plan under this section shall not affect in any way the
168 commission's authority with respect to the grant or denial
169 of a certificate of convenience and necessity under section
170 393.170. By February twenty-eighth following each year in
171 which the electrical corporation submits a capital
172 investment plan, the electrical corporation shall submit a
173 report to the commission detailing actual capital
174 investments made the previous year, the quantitatively
175 evaluated benefits and costs generated by each of those

176 investments that exceeded twenty million dollars, and any
177 efficiencies achieved as a result of those investments.

178 5. This section shall only apply to any electrical
179 corporation that has filed a notice with the commission of
180 the electrical corporation's election to make the deferrals
181 for which this section provides. An electrical corporation
182 may provide notice to the commission one time under this
183 subsection if such corporation has applied to the commission
184 under subsection 2 of section 386.266, provided the
185 corporation shall not concurrently utilize deferrals under
186 this subsection and the electric rate adjustments set forth
187 in subsection 3 of section 386.266. An electrical
188 corporation's election shall allow it to make the deferrals
189 provided for by subsection 2 of this section until December
190 31, **[2028] 2035**. Notwithstanding the immediately preceding
191 sentence, an electrical corporation may seek permission to
192 continue to make the deferrals provided for by subsection 2
193 of this section for an additional five years beyond December
194 31, **[2028] 2035**, by filing an application with the
195 commission seeking such permission by December 31, **[2026]**
196 **2033**, which application shall be ruled upon by the
197 commission within one hundred eighty days after its filing.
198 In deciding whether to grant such permission to continue the
199 commission shall have the authority, consistent with its
200 statutory authority outside this section, to consider such
201 factors as in its judgment it deems necessary and may
202 condition the permission on factors that are relevant to the
203 deferrals authorized by subsection 2 of this section. The
204 commission shall make the determination of whether to grant
205 such permission to continue after a hearing. An electrical
206 corporation making deferrals provided for by subsection 2 of
207 this section on and after January 1, 2024, shall be subject

208 to the revenue requirement impact cap set forth under
209 section 393.1656. Failure to obtain such commission
210 permission to continue shall not affect deferrals made
211 through the date for which permission has been granted, or
212 the regulatory and ratemaking treatment of the regulatory
213 assets arising from such deferrals as provided for by this
214 section.

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

221 7. This section shall expire on December 31, [2033]
222 2040, except that the amortization of the regulatory asset
223 balances arising under this section shall continue to be
224 reflected in the electrical corporation's rates and
225 remaining regulatory asset balances shall be included in the
226 electrical corporation's rate base consistent with the
227 ratemaking treatment and amortization previously approved by
228 the commission pursuant to this section.

✓