

SENATE BILL NO. 618

103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR CIERPIOT.

2345S.01H

KRISTINA MARTIN, Secretary

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Section A. Section 393.135, RSMo, is repealed and three new sections enacted in lieu thereof, to be known as sections 393.135, 393.1080, and 393.1900, to read as follows: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

19 in rate base. The commission shall determine, in a
20 proceeding under section 393.170, the amount of construction
21 work in progress that may be included in rate base. The
22 amount shall be limited by the estimated cost of such
23 project and project expenditures made within the estimated
24 construction period for such project. Base rate recoveries
25 arising from inclusion of construction work in progress in
26 base rates are subject to refund, together with interest on
27 the refunded amount at the same rate as the rate of interest
28 for delinquent taxes determined by the director of revenue
29 in accordance with section 32.065, if, and to the extent the
30 commission determines, in a subsequent complaint or general
31 rate proceeding, construction costs giving rise to the
32 construction work in progress included in rate base were
33 imprudently incurred. Return deferred under subdivision (2)
34 of subsection 3 of section 393.1400 for a plant that has
35 been included in base rates as construction work in progress
36 shall offset the amounts deferred under section 393.1400.

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

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

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

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

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

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

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

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

47 5. The commission may promulgate rules necessary to
48 implement the provisions of this section. Any rule or
49 portion of a rule, as that term is defined in section
50 536.010, that is created under the authority delegated in
51 this section shall become effective only if it complies with
52 and is subject to all of the provisions of chapter 536 and,
53 if applicable, section 536.028. This section and chapter
54 536 are nonseverable and if any of the powers vested with
55 the general assembly pursuant to chapter 536 to review, to
56 delay the effective date, or to disapprove and annul a rule
57 are subsequently held unconstitutional, then the grant of
58 rulemaking authority and any rule proposed or adopted after
59 August 28, 2025, shall be invalid and void.

 393.1900. 1. The commission shall, by August 28,
2 2026, and every four years or as needed thereafter, commence
3 an integrated resource planning proceeding for electrical
4 corporations. As part of such proceeding, the commission
5 shall:

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

11 (2) Identify significant existing or proposed state or
12 federal environmental regulations, laws, or rules and
13 identify how each such regulation, law, or rule may apply to
14 electrical corporations in this state;

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

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

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

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

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

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

38 (4) Identify or designate any software, data
39 standards, and formatting to be used in modeling the
40 alternative resource plan or plans pursuant to subdivision

41 (3) of this subsection;

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

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

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

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

74 useful life of each generating unit, and identification of
75 potential capital projects that are reasonably expected to
76 result in the extension of the retirement date of each
77 generating unit;

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

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

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

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

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

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

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

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

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

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

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

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

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

136 (15) Results from a request for information or
137 proposals to provide any new supply-side resources needed to
138 serve the corporation's projected electric load, applicable
139 planning reserve margin, and local clearing requirement
140 during the initial four-year planning period. The request
141 for information or proposals may define qualifying
142 performance standards, contract terms, technical competence,
143 capability, reliability, creditworthiness, past performance,
144 and other criteria that responses or respondents to the
145 request for information shall meet in order to be considered
146 by the corporation in its integrated resource plan.

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

156 (16) Selection of a preferred resource plan;

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

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

168 4. The commission shall, after a hearing is conducted,
169 issue a report and order no later than three hundred sixty
170 days after the electrical corporation files an integrated
171 resource plan under this section, unless the commission
172 grants itself an extension for good cause for the issuance
173 of the report and order. Up to one hundred fifty days after
174 an electrical corporation makes its initial integrated
175 resource plan filing, the electrical corporation may file an
176 update of the cost estimates provided under subdivision (2)
177 of subsection 3 of this section if the cost estimates have
178 materially changed. An electrical corporation shall not
179 modify any other aspect of the initial integrated resource
180 plan filing unless the commission grants the electrical
181 corporation the ability to do so. The commission's report
182 and order shall determine whether the electrical corporation
183 has submitted sufficient documentation and selected a
184 preferred resource plan that represents a reasonable and
185 prudent means of meeting the electrical corporation's load
186 serving obligations at just and reasonable rates. In making
187 the determination, the commission shall consider whether the
188 plan appropriately balances all of the following factors:

- 189 (1) Resource adequacy to serve anticipated peak
190 electric load and seasonal peak demand forecasts, applicable
191 planning reserve margin, local clearing requirements, and
192 the role of energy and capacity markets;
- 193 (2) Reliability;
- 194 (3) Rate impacts;
- 195 (4) Overall cost-effectiveness in providing service;
- 196 (5) Commodity price risks;
- 197 (6) Diversity of supply-side resources;
- 198 (7) Competitive pricing;

199 (8) Participation in regional transmission
200 organization markets; and

201 (9) Compliance with applicable state and federal
202 environmental regulations.

203 5. (1) If the commission determines that the
204 preferred resource plan is a reasonable and prudent means of
205 meeting the electrical corporation's load serving
206 obligations, such determination shall constitute the
207 commission's permission for the electrical corporation to
208 construct or acquire the specified supply-side resources, or
209 a specified quantity of supply-side resources by supply-side
210 resource type, or both, identified by the commission, that
211 were reflected in the implementation plan submitted under
212 subdivision (17) of subsection 3 of this section, provided
213 that construction commences or the acquisition agreement is
214 executed within the four-year implementation period. With
215 respect to such resources, when the electrical corporation
216 files an application for a certificate of convenience and
217 necessity to authorize construction or acquisition of such
218 resource or resources pursuant to subsection 1 of section
219 393.170, the commission shall be deemed to have determined
220 that the supply-side resources for which such a
221 determination was made are necessary or convenient for the
222 public interest. In such a certificate of convenience and
223 necessity proceeding, the commission's inquiry shall be
224 limited to considering the electrical corporation's
225 qualifications to construct and operate the resources, the
226 electrical corporation's ability to finance the construction
227 or acquisition of the resources, and siting considerations.
228 The commission shall take all reasonable steps to expedite
229 such a certificate of convenience and necessity proceeding
230 and shall issue its decision in such a proceeding within one

231 hundred twenty days of the date that the electrical
232 corporation files its application. An electrical
233 corporation shall annually, or more frequently if required
234 by the commission, report to the commission the status of
235 supply-side resources being implemented during the
236 implementation period.

237 (2) If the commission determines that the preferred
238 resource plan, in whole or in part, is not a reasonable and
239 prudent means of meeting the electrical corporation's load
240 serving obligations, the commission shall have the authority
241 to specify in its report and order the deficiencies in the
242 preferred resource plan and may require the electrical
243 corporation to make a further filing within sixty days after
244 issuance of the report and order addressing the deficiencies
245 and the electrical corporation may propose modifications to
246 its original preferred resource plan. If such an order
247 requiring a further filing by the electrical corporation is
248 issued, the commission's report and order issued under this
249 subsection shall not be final for purposes of rehearing
250 pursuant to section 386.500 or an appeal pursuant to section
251 386.510. Other parties to the integrated resource plan
252 docket shall have sixty days to respond to the electrical
253 corporation's further filing, unless the commission grants
254 an extension for good cause to respond to the electrical
255 corporation's further filing. Within sixty days after the
256 deadline for such other parties' filings, the commission
257 shall issue a report and order, which shall be final for
258 purposes of rehearing pursuant to section 386.500, and
259 appeal pursuant to section 386.510, indicating whether the
260 deficiencies have been cured by the electrical corporation's
261 further filing and the commission may approve the electrical
262 corporation's modified preferred resource plan and may

263 approve specific supply-side resources, or a specified
264 quantity of supply-side resources by supply-side resource
265 type, or both. If the commission finds continued
266 deficiencies in the electrical corporation's modified
267 preferred resource plan:

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

270 (b) The electrical corporation shall not be eligible
271 for a limited inquiry in any proceeding under section
272 393.170 as set forth in subdivision (1) of this subsection
273 for any resource additions not approved by the commission;
274 and

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

279 (3) Notwithstanding section 393.135 to the contrary,
280 if approved in a proceeding granting permission and approval
281 under subsection 1 of section 393.170, an electrical
282 corporation may be permitted to include in the corporation's
283 rate base any amounts recorded to construction work in
284 progress for the investments for which permission is given
285 under subdivision (1) of subsection 5 of this section. The
286 inclusion of construction work in progress shall be in lieu
287 of any otherwise applicable allowance for funds used during
288 construction that would have accrued from and after the
289 effective date of new base rates that reflect inclusion of
290 the construction work in progress in rate base. The
291 commission shall determine, in a proceeding under section
292 393.170, the amount of construction work in progress that
293 may be included in rate base. The amount shall be limited
294 by:

295 (a) The estimated cost of such project; and
296 (b) Project expenditures made within the estimated
297 construction period for such project. Base rate recoveries
298 arising from inclusion of construction work in progress in
299 base rates are subject to refund, together with interest on
300 the refunded amount at the same rate as the rate of interest
301 for delinquent taxes determined by the director of revenue
302 in accordance with section 32.065, if and to the extent the
303 commission determines, in a subsequent complaint or general
304 rate proceeding, that construction costs giving rise to the
305 construction work in progress included in rate base were
306 imprudently incurred. Return deferred under subdivision (2)
307 of subsection 3 of section 393.1400 for a plant that has
308 been included in base rates as construction work in progress
309 shall offset the amounts deferred under section 393.1400.

310 6. The commission shall promulgate rules necessary to
311 implement the provisions of this section. Any rule or
312 portion of a rule, as that term is defined in section
313 536.010, that is created under the authority delegated in
314 this section shall become effective only if it complies with
315 and is subject to all of the provisions of chapter 536 and,
316 if applicable, section 536.028. This section and chapter
317 536 are nonseverable and if any of the powers vested with
318 the general assembly pursuant to chapter 536 to review, to
319 delay the effective date, or to disapprove and annul a rule
320 are subsequently held unconstitutional, then the grant of
321 rulemaking authority and any rule proposed or adopted after
322 August 28, 2025, shall be invalid and void.

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

325 (1) "Firm gas transportation", an anticipated
326 agreement entered into between the electrical corporation

327 and a natural gas transmission provider for a set period of
328 time to provide firm delivery of natural gas to an electric
329 generation facility;

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

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