

SECOND REGULAR SESSION

HOUSE BILL NO. 1241

92ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES RECTOR (Sponsor), EMERY, VIEBROCK, TAYLOR, SCHLOTTACH, RICHARD, WASSON, HUNTER, LeVOTA, SKAGGS, LOWE, GEORGE, PAGE, WILSON (130), SHOEMAKER, BOUGH, WILLOUGHBY, STEVENSON, KRATKY, WOOD, BISHOP, CUNNINGHAM (145), WALLACE, DIXON AND SAGER (Co-sponsors).

Read 1st time January 22, 2004, and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

3977L.011

AN ACT

To amend chapter 393, RSMo, by adding thereto one new section relating to predetermination of prudence and ratemaking principles for infrastructure investments by utilities.

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

Section A. Chapter 393, RSMo, is amended by adding thereto one new section, to be known as section 393.156, to read as follows:

393.156. 1. Any electrical, gas, or water corporation proposing to construct, lease, or invest in any new generation plant, transmission facility, or facility for the storage or delivery of natural gas or water, or proposing to make modifications or additions to an existing infrastructure, or proposing to enter into any contract for the purchase of power and energy, natural gas, or any multiyear hedging arrangement may file with the public service commission an application requesting a determination of prudence of the decision to construct, lease, or invest in such infrastructure based upon the circumstances prevailing and information and alternatives presented at the time of the determination. As part of its application, the corporation may also request that the commission determine certain ratemaking principles that will be applied to the investment or cost of such infrastructure in future proceedings before the commission. The application may include, at the option of the corporation, an application for a certificate of convenience and necessity under section 393.170, if necessary. At the time the application is filed, the corporation shall file all evidence supporting its proposed course of action, including testimony, exhibits, work papers, and studies including electronic versions. The corporation shall also file proposed confidentiality agreements (including any required by

17 third-party vendors) and identify all material for which a need for confidentiality is
18 asserted. If any proposed generation facility is not to be located within the state of
19 Missouri or if any proposed contract for power and energy is not with an entity owning
20 generation facilities within the state of Missouri, the corporation shall submit evidence that
21 the location of the facility or the contract is not detrimental to the interest of Missouri
22 ratepayers.

23 **2. The commission shall establish guidelines for the submittal of the application by**
24 **the corporation. The commission shall conduct a hearing and issue an order within one**
25 **hundred eighty days after the filing of the application in accordance with any guidelines**
26 **established by the commission. If after hearing, the commission determines that the**
27 **decision to construct, lease, or invest in such infrastructure, or to enter into such purchase**
28 **contract is reasonable and prudent, the commission shall issue an order and certificate so**
29 **stating and addressing all ratemaking principles requested by the corporation in its filing.**
30 **The commission may impose conditions on the certificate requiring the corporation to**
31 **monitor, and report to the commission on a specified schedule, any significant changes in**
32 **specified costs, load, regulatory, economic, or other assumptions upon which the decision**
33 **was based. Costs shall be included in rates of the corporation only in accordance with**
34 **existing law, except as otherwise provided in this section. Nothing in this section alters the**
35 **commission's authority or procedures in setting the corporation's rates, or to review the**
36 **prudence of construction management.**

37 **3. The order by the commission certifying prudence and addressing ratemaking**
38 **principles shall be applied in any future rate case to the investment and costs of the facility**
39 **or contract and shall be binding for ratemaking purposes in all future proceedings.**
40 **Ratemaking principles may include authorized return on common equity, capital structure**
41 **to finance the facility, estimated service life, depreciation rate for cost of service purposes,**
42 **jurisdictional allocation method to be applied to the cost, and in-service criteria used to**
43 **determine when a facility is fully operational and used for service consistent with section**
44 **393.135.**

45 **4. If the commission fails to issue an order determining the prudence of the**
46 **proposal within one hundred eighty days after the application is filed and determined to**
47 **be complete, the project or contract is deemed to be prudent as proposed, any certificate**
48 **for convenience and necessity and any ratemaking principles requested by the corporation**
49 **in the application shall be deemed approved by the commission and shall be binding for**
50 **ratemaking purposes in all future proceedings.**

51 **5. The corporation shall have two hundred seventy days after the effective date of**
52 **an order determining a project or contract to be prudent to notify the commission whether**

53 **it will construct the facility or enter into the proposed contract. If the corporation notifies**
54 **the commission it will not proceed with construction of the facility or will not enter into the**
55 **contract, any ratemaking principles included in the order will be void and there shall be**
56 **no adverse presumption applied to the corporation in any future proceeding before the**
57 **commission as a result of the proceedings under this section.**

58 **6. At the time of any interim report required by the commission in the order**
59 **approving the project, the corporation may request the commission to consider a**
60 **modification or termination of a project for which a certificate has been issued. At any**
61 **time prior to the completion of the project, if there is an occurrence of a significant,**
62 **unusual event, such as an act of God, a significant change in federal or state environmental**
63 **or utility law or regulation, or other significant events which individually or collectively,**
64 **materially and adversely affect the utility or the project, the commission on its own motion**
65 **may require the corporation to present evidence supporting the decision to continue a**
66 **project for which a certificate has been issued. In the event the commission, after hearing,**
67 **determines that continuation of a project is no longer prudent or should be modified, the**
68 **corporation shall be allowed to recover in rates, in a timely manner consistent with**
69 **financial obligations of the corporation, the amounts already expended, incurred, or**
70 **obligated on the project including interest expense and a return on equity invested in the**
71 **project up to the time the order is entered even though the project may never be fully**
72 **operational or used for service.**

73 **7. No corporation shall file more than one application under this section in any**
74 **twelve-month period. However, if an application is dismissed or denied or the corporation**
75 **notifies the commission it will not proceed under an approved application, the corporation**
76 **may file a new application for the same or an alternate facility or contract at any time. The**
77 **commission may waive this limitation when it deems a waiver to be in the public interest.**

78 **8. Nothing herein shall excuse a corporation from complying with its public service**
79 **obligation to provide safe and adequate service at just and reasonable rates.**