

FIRST REGULAR SESSION

HOUSE BILL NO. 633

100TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE BONDON.

1089H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To amend chapter 393, RSMo, by adding thereto four new sections relating to the Missouri water and wastewater infrastructure resilience act.

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

Section A. Chapter 393, RSMo, is amended by adding thereto four new sections, to be known as sections 393.1500, 393.1502, 393.1504, and 393.1506 to read as follows:

393.1500. Sections 393.1500 to 393.1506 shall be known and may be cited as the "Missouri Water and Wastewater Infrastructure Resilience Act".

393.1502. As used in sections 393.1500 to 393.1506, the following terms shall mean:

(1) "Appropriate pretax revenues", the revenues necessary to produce net operating income equal to:

(a) The water or sewer corporation's pretax weighted cost of capital multiplied by the net original cost of eligible infrastructure system projects, including recognition of accumulated deferred income taxes and accumulated depreciation associated with eligible infrastructure system projects which are included in a currently effective infrastructure resilience rate adjustment implemented under sections 393.1504 and 303.1506;

(b) The state, federal, and local income or excise taxes applicable to the revenues;

(c) The depreciation expense applicable to the eligible infrastructure system project; or

(d) The property taxes applicable to the eligible infrastructure that will be due within twelve months of the filing of a request to implement an infrastructure resilience rate adjustment under sections 393.1504 and 393.1506;

(2) "Commission", the Missouri public service commission;

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

16 (3) "Eligible infrastructure system projects", water or sewer utility plant projects
17 that:

18 (a) Replace, reinforce, strengthen, or improve reliability or resilience of the existing
19 infrastructure including, but not limited to, water transmission and distribution mains,
20 valves, hydrants, service lines, pumps, sewer collecting lines and associated pumping and
21 transmission facilities, water treatment plant facilities, wells and storage facilities, and
22 sewer treatment facilities;

23 (b) Are in service, used, and useful;

24 (c) Do not increase revenues by directly connecting the eligible infrastructure
25 system project to new customers; and

26 (d) The costs of which were not included in the water or sewer corporation's base
27 rates in its most recent general rate case;

28 (4) "Infrastructure resilience rate adjustment" or "IRRA", a separate line item
29 rate on a customer's water system projects implemented under sections 393.1500 to
30 393.1506;

31 (5) "IRRA revenues", revenues produced through implementation of an IRRA
32 under sections 393.1500 to 393.1506, exclusive of revenues from all other rates and charges;

33 (6) "Sewer corporation", the same as defined in section 386.020;

34 (7) "Water corporation", the same as defined in section 386.020.

393.1504. 1. Notwithstanding any provisions of chapters 386 and 393 to the
2 contrary, a water or sewer corporation providing water or sewer service anywhere within
3 the state may file a petition and proposed rate schedules with the commission to establish
4 or change an IRRA that will provide for the recovery of the appropriate pretax revenues
5 associated with the eligible infrastructure system projects, provided that the IRRA, on an
6 annualized basis, must produce IRRA revenues of at least one million dollars. In addition,
7 the IRRA, individually or when combined with a currently effective ISRS under subsection
8 1 of section 393.1003, must not produce revenues in excess of fifteen percent of the water
9 or sewer corporation's base revenue requirement approved by the commission in the water
10 or sewer corporation's most recent general rate proceeding. The IRRA and any future
11 changes thereto shall be calculated and implemented in accordance with the provisions of
12 sections 393.1502 and 393.1506. IRRA revenues shall be subject to refund based upon a
13 finding and order of the commission, to the extent provided in subsections 5 and 8 of
14 section 393.1506.

15 2. The commission shall not approve an IRRA for a water or sewer corporation
16 that has not had a general rate proceeding decided or dismissed by issuance of a
17 commission order in the three years before the filing of a petition under this section, unless

18 the water or sewer corporation has filed for or is the subject of a new general rate
19 proceeding.

20 3. In no event shall a water or sewer corporation collect an IRRA for a period
21 exceeding three years unless the water or sewer corporation has filed for or is the subject
22 of a new general rate proceeding, provided that the IRRA may be collected until the
23 effective date of new rate schedules established under a new general rate proceeding or
24 until the subject general rate proceeding is otherwise decided or dismissed by issuance of
25 a commission order without new rates being established.

2 393.1506. 1. (1) At the time that a water or sewer corporation files a petition under
3 section 393.1504, it shall submit proposed IRRA rate schedules and supporting
4 documentation regarding the calculation of the proposed IRRA with the petition and shall
5 serve the office of the public counsel with a copy of its petition, its proposed IRRA rate
6 schedules, and the supporting documentation;

7 (2) Upon the filing of a petition and any associated IRRA rate schedules seeking to
8 establish or change an IRRA, the commission shall publish notice of the filing.

9 2. (1) When a petition, along with any associated proposed rate schedules, is filed
10 under sections 393.1504 and 393.1506, the commission shall conduct an examination of the
11 proposed IRRA;

12 (2) The commission may examine the schedules and documentation submitted by
13 the water or sewer corporation to confirm that the underlying costs are in accordance with
14 the provisions of sections 393.1504 and 393.1506 and that such costs are properly
15 calculated. The commission may also create a report regarding its examination no later
16 than sixty days after the petition is filed. No other revenue requirement or ratemaking
17 issues shall be examined in consideration of the petition or associated proposed IRRA rate
18 schedules filed under the provisions of sections 393.1500 to 393.1506;

19 (3) The commission may hold a hearing on the petition and any associated IRRA
20 rate schedules and shall issue an order with an effective date no later than one hundred
21 twenty days after the petition is filed;

22 (4) If the commission finds that a petition complies with the requirements of
23 sections 393.1504 and 393.1506, the commission shall enter an order authorizing the water
24 or sewer corporation to implement an IRRA that is sufficient to recover appropriate pretax
25 revenues, as determined by the commission under sections 393.1504 and 393.1506.

26 3. A water or sewer corporation may petition for a change in its IRRA under this
27 section no more than twice in a twelve-month period.

28 4. In determining the appropriate pretax revenues, the commission shall consider
only the following:

- 29 (1) The current state, federal, and local income or excise tax rates;
- 30 (2) The water or sewer corporation's actual regulatory capital structure as
- 31 determined during the most recent general rate proceeding of the water or sewer
- 32 corporation;
- 33 (3) The actual cost rates for the water or sewer corporation's debt and preferred
- 34 stock as determined during the most recent general rate proceeding of the water or sewer
- 35 corporation;
- 36 (4) The water or sewer corporation's cost of common equity as determined during
- 37 the most recent general rate proceeding of the water or sewer corporation;
- 38 (5) The current property tax rate or rates applicable to the eligible infrastructure
- 39 system projects; and
- 40 (6) The current depreciation rates applicable to the eligible infrastructure system
- 41 projects.

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43 In the event information considered under subdivisions (2), (3), and (4) of this subsection

44 is unavailable and the commission is not provided with such information on an agreed-

45 upon basis, the commission shall utilize the last authorized overall pretax weighted average

46 cost of capital for an IRRA or the last authorized overall pretax weighted average cost of

47 capital in a general rate proceeding of the water or sewer corporation.

48 5. (1) An IRRA shall be calculated based upon the amount of infrastructure system

49 project costs that are eligible for recovery during the period in which the IRRA will be in

50 effect and upon the applicable customer class billing determinants utilized in designing the

51 water or sewer corporation's customer rates in its most recent general rate proceeding and

52 allocated in a manner consistent with the rate design methodology utilized to develop the

53 water or sewer corporation's rates resulting from its most recent general rate proceeding;

54 (2) At the end of each calendar year that an IRRA is in effect, the water or sewer

55 corporation shall reconcile the differences between the revenues resulting from an IRRA

56 and the appropriate pretax revenues as found by the commission for that period and shall

57 submit the reconciliation and a proposed IRRA to the commission for approval to recover

58 or credit the difference, as appropriate, through an IRRA.

59 6. (1) A water or sewer corporation that has implemented an IRRA under the

60 provisions of sections 393.1504 and 393.1506 shall file revised IRRA schedules to reset the

61 IRRA to zero when new base rates and charges become effective for the water or sewer

62 corporation following a commission order establishing customer rates in a general rate

63 proceeding that incorporates in the utility's base rates, subject to subsections 8 and 9 of this

64 section, eligible costs previously reflected in an IRRA.

65 (2) Upon the inclusion in a water or sewer corporation's base rates of eligible costs
66 previously reelected in an IRRA, subject to subsections 8 and 9 of this section, the water
67 or sewer corporation shall immediately thereafter reconcile any previously unreconciled
68 IRRA revenues as necessary to ensure that revenues resulting from the IRRA match as
69 closely as possible the appropriate pretax revenues as found by the commission for that
70 period.

71 7. A water or sewer corporation's filing of a petition to establish or change an
72 IRRA under the provisions of sections 393.1504 and 393.1506 shall not be considered a
73 request for a general increase in the water or sewer corporation's base rates and charges.

74 8. Nothing contained in sections 393.1504 and 393.1506 shall be construed to impair
75 the authority of the commission to review the prudence or eligibility of specific projects
76 included in the proposed IRRA, including the authority to approve, modify, or reject
77 project costs based on prudence and eligibility requirements.

78 9. The commission shall have authority to promulgate rules for the implementation
79 of sections 393.1500 to 393.1506, but only to the extent such rules are consistent with and
80 do not delay the implementation of the provisions of sections 393.1500 to 393.1507. Any
81 rule or portion of a rule, as that term is defined in section 536.010, that is created under
82 the authority delegated in this section shall become effective only if it complies with and
83 is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This
84 section and chapter 536 are nonseverable, and if any of the powers vested with the general
85 assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove
86 and annul a rule are subsequently held unconstitutional, then the grant of rulemaking
87 authority and any rule proposed or adopted after August 28, 2019, shall be invalid and
88 void.

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