

FIRST REGULAR SESSION  
HOUSE COMMITTEE SUBSTITUTE FOR  
**HOUSE BILL NO. 1415**  
**101ST GENERAL ASSEMBLY**

2747H.03C

DANA RADEMAN MILLER, Chief Clerk

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**AN ACT**

To repeal sections 393.137, 393.170, and 523.262, RSMo, and to enact in lieu thereof three new sections relating to utilities.

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

Section A. Sections 393.137, 393.170, and 523.262, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 393.137, 393.170, and 523.262, to read as follows:

393.137. 1. ~~[This section applies to electrical corporations that do not have a general rate proceeding pending before the commission as of the later of February 1, 2018, or June 1, 2018.~~

~~2.]~~ For purposes of this section, the following terms shall mean:

(1) "Commission", the public service commission;

(2) **"Tax legislation", additions, deletions, or amendments to the Internal Revenue Code, Title 26 of the United States Code, to the Missouri income tax code, or regulations adopted under chapter 143;**

(3) ~~["Electrical corporation", the same as]~~ **"Utility", an electrical corporation or gas corporation, as defined in section 386.020**~~[, but]~~ . "Utility" shall not include an electrical corporation as described in subsection 2 of section 393.110.

~~[3. If the rates of any electrical corporation to which this section applies have not already been adjusted to reflect the effects of the federal 2017 Tax Cut and Jobs Act, Pub. L. No. 115-97, 94 Stat. 2390, the commission shall have one time authority that shall be exercised within ninety days of June 1, 2018, to adjust such electrical corporation's rates prospectively so that the income tax component of the revenue requirement used to set such an electrical corporation's rates is based upon the provisions of such federal act without considering any other factor as otherwise required by section 393.270. The commission shall also require electrical corporations to which~~

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.

~~18 this section applies, as provided for under subsection 1 of this section, to defer to a regulatory  
19 asset the financial impact of such federal act on the electrical corporation for the period of  
20 January 1, 2018, through the date the electrical corporation's rates are adjusted on a one-time  
21 basis as provided for in the immediately preceding sentence. The amounts deferred under this  
22 subsection shall be included in the revenue requirement used to set the electrical corporation's  
23 rates in its subsequent general rate proceeding through an amortization over a period determined  
24 by the commission.]~~

25       **2. If the United States Congress or general assembly enacts tax legislation that, had  
26 it been effective when the utility's base rates were last set, would have resulted in a lower  
27 income tax component of the revenue requirement used to last set such base rates, the  
28 commission shall have the authority to, within one hundred eighty days of the effective date  
29 of the subject tax legislation, enter an order adjusting such utility's base rates prospectively  
30 so that the income tax component of the revenue requirement used to set such utility's base  
31 rates is based upon the provisions of such tax legislation without considering any other  
32 factor as otherwise required by section 393.270. As part of its exercise of such authority,  
33 the commission shall also require the utility to defer to a regulatory liability an amount  
34 equal to the difference between what the income tax component of the revenue requirement  
35 last used to set its base rates was under the law at that time and what the income tax  
36 component of the revenue requirement would have been had such tax legislation been in  
37 effect at that time. The deferral period shall commence with the date such tax legislation  
38 would have resulted in a lower income tax component of such revenue requirement last  
39 used to set the utility's base rates and continue through the date the utility's base rates are  
40 next adjusted. The amounts deferred under this subsection shall be included in the  
41 revenue requirement used to set the utility's base rates in its subsequent general rate  
42 proceedings through amortization over a period of up to three years, as determined by the  
43 commission.**

44       ~~[4.]~~ **3. Upon good cause shown by [the electrical corporation] a utility, the commission  
45 may, as an alternative to requiring a [one-time] rate change and deferral under subsection [3] 2  
46 of this section, allow a deferral to a regulatory liability, in whole or in part, of [such federal  
47 act's financial impacts to a regulatory asset starting January 1, 2018,] the amounts that would  
48 have been reflected in a base rate reduction under subsection 2 of this section. The  
49 deferral period shall commence on the date such tax legislation would have resulted in a  
50 lower income tax component and continue through the effective date of new rates in such  
51 [electrical corporation's] utility's next general rate proceeding. The deferred amounts shall be  
52 included in the revenue requirement used to set the [electrical corporation's] utility's rates in its**

53 subsequent general rate proceeding through an amortization over a period determined by the  
54 commission.

55 **4. If the United States Congress or general assembly enacts tax legislation that, had**  
56 **it been in effect when the utility's base rates were last set, would have resulted in a higher**  
57 **income tax component of the revenue requirement used to last set such base rates, the**  
58 **utility shall be entitled, by giving notice to the commission within one hundred eighty days**  
59 **of the effective date of such tax legislation, to defer to a regulatory asset an amount equal**  
60 **to the difference between what the income tax component of the revenue requirement used**  
61 **to last set its base rates was under the law at that time and what the income tax component**  
62 **of the revenue requirement would have been had such tax legislation been in effect at that**  
63 **time. The deferral period shall commence on the date such tax legislation would have**  
64 **resulted in a higher income tax component of such revenue requirement last used to set the**  
65 **utility's base rates and continue through the date the utility's base rates are next adjusted**  
66 **as provided for in this subsection. The amounts deferred under this subsection shall be**  
67 **included in the revenue requirement used to set the utility's rates in its subsequent general**  
68 **rate proceedings through amortization over a period of up to three years, as determined**  
69 **by the commission, without considering any other factor as otherwise required by section**  
70 **393.270.**

71 **5. If the tax legislation that either reduces or increases the utility's income tax**  
72 **component, under subsection 2 or 4 of this section, does so at a point in time other than**  
73 **beginning with its effective date, or does so in multiple stages at different points in time,**  
74 **the commission order in subsection 1 of this section and the utility's notice in subsection**  
75 **4 of this section shall be deemed to apply to the first point in time when the income tax**  
76 **component would have been changed and to subsequent changes in such income tax**  
77 **component arising from such tax legislation without the necessity of the commission issuing**  
78 **a subsequent order or the utility providing a subsequent notice, as the case may be. Each**  
79 **such change shall require a separate base rate change, deferral, and amortization period,**  
80 **as applicable.**

81 **6. If the United States Congress or general assembly has, prior to the effective date**  
82 **of this section, enacted tax legislation that either reduces or increases the utility's income**  
83 **tax component the one-hundred-eighty-day period in subsection 2 and 4 of this section**  
84 **shall commence on the effective date of this section.**

85 **7. Notwithstanding any other provision of this section to the contrary, the**  
86 **commission's authority to adjust utility rates and require deferrals regarding reductions**  
87 **in the income tax component of a utility's revenue requirement under subsections 2 and**  
88 **3 of this section, and utility authority to defer and recover increases in the income tax**

89 **component under subsection 4 of this section, shall not exist unless the addition, deletion,**  
90 **or amendment to tax legislation results in a difference in the income tax component of the**  
91 **utility's revenue requirement, calculated in accordance with subsection 2 or 4 of this**  
92 **section, as applicable, that is greater than an amount in excess of two-tenths of one percent**  
93 **of such utility's operating revenues reported to the commission in such utility's annual**  
94 **report for the calendar year preceding the calendar year in which such difference is**  
95 **calculated.**

393.170. 1. No gas corporation, electrical corporation, water corporation or sewer  
2 corporation shall begin construction of a gas plant, electric plant, water system or sewer system,  
3 other than an energy generation unit that has a capacity of one megawatt or less, without first  
4 having obtained the permission and approval of the commission.

5 2. No such corporation shall exercise any right or privilege under any franchise hereafter  
6 granted, or under any franchise heretofore granted but not heretofore actually exercised, or the  
7 exercise of which shall have been suspended for more than one year, without first having  
8 obtained the permission and approval of the commission. Before such certificate shall be issued  
9 a certified copy of the charter of such corporation shall be filed in the office of the commission,  
10 together with a verified statement of the president and secretary of the corporation, showing that  
11 it has received the required consent of the proper municipal authorities.

12 3. (1) **Before the commission shall issue an approval under subsection 1 of this**  
13 **section for a merchant line, an entity shall provide the commission a resolution of support**  
14 **passed by the county commission of each county through which the merchant line will be**  
15 **built. Any electrical corporation that begins construction on a merchant line after August**  
16 **28, 2021, shall provide the required resolutions to the commission prior to construction,**  
17 **regardless of whether the commission has previously issued its approval.**

18 (2) **For the purposes of this subsection, the following terms mean:**

19 (a) **"Entity", an electrical corporation that does not provide service to end-use**  
20 **customers or provide retail service in Missouri or does not collect its costs to provide**  
21 **service under a regional transmission organization tariff;**

22 (b) **"Merchant line", a high-voltage direct current electric transmission line that**  
23 **does not provide for the erection of electric substations at intervals of less than fifty miles,**  
24 **which substations are necessary to accommodate both the purchase and sale to persons**  
25 **located in this state of electricity generated or transmitted by such entity.**

26 4. The commission shall have the power to grant the permission and approval herein  
27 specified whenever it shall after due hearing determine that such construction or such exercise  
28 of the right, privilege or franchise is necessary or convenient for the public service. The  
29 commission may by its order impose such condition or conditions as it may deem reasonable and

30 necessary. Unless exercised within a period of two years from the grant thereof, authority  
31 conferred by such certificate of convenience and necessity issued by the commission shall be null  
32 and void.

523.262. 1. Except as set forth in subsection 2 of this section, the power of eminent  
2 domain shall only be vested in governmental bodies or agencies whose governing body is elected  
3 or whose governing body is appointed by elected officials or in an urban redevelopment  
4 corporation operating pursuant to a redevelopment agreement with the municipality for a  
5 particular redevelopment area, which agreement was executed prior to or on December 31, 2006.

6 2. A private utility company, public utility, rural electric cooperative, municipally owned  
7 utility, pipeline, railroad or common carrier shall have the power of eminent domain as may be  
8 granted pursuant to the provisions of other sections of the revised statutes of Missouri. For the  
9 purposes of this section, the term "common carrier" shall not include motor carriers, contract  
10 carriers, or express companies. Where a condemnation by such an entity results in a displaced  
11 person, as defined in section 523.200, the provisions of subsections 3 and 6 to 10 of section  
12 523.205 shall apply unless the condemning entity is subject to the relocation assistance  
13 provisions of the federal Uniform Relocation Assistance Act.

14 3. Any entity with the power of eminent domain and pursuing the acquisition of property  
15 for the purpose of constructing a power generation facility after December 31, 2006, after  
16 providing notice in a newspaper of general circulation in the county where the facility is to be  
17 constructed, shall conduct a public meeting disclosing the purpose of the proposed facility prior  
18 to making any offer to purchase property in pursuit thereof or, alternatively, shall provide the  
19 property owner with notification of the identity of the condemning authority and the proposed  
20 purpose for which the condemned property shall be used at the time of making the initial offer.

21 **4. (1) Notwithstanding the provisions of subsection 2 of this section, no entity shall**  
22 **have the power of eminent domain under the provisions of this section for the purpose of**  
23 **constructing above-ground merchant lines.**

24 **(2) For the purpose of this subsection, the following terms mean:**

25 **(a) "Entity", a utility company that does not provide service to end-use customers**  
26 **or provide retail service in Missouri, or does not collect its costs to provide service under**  
27 **a regional transmission organization tariff, regardless of whether it has received a**  
28 **certificate of convenience and necessity from the public service commission under section**  
29 **393.170;**

30 **(b) "Merchant line", a high-voltage direct current electric transmission line that**  
31 **does not provide for the erection of electric substations at intervals of less than fifty miles,**  
32 **which substations are necessary to accommodate both the purchase and sale to persons**  
33 **located in this state of electricity generated or transmitted by such entity.**

34           **(3) This subsection shall apply to any property or easement acquisition started on**  
35 **or after August 28, 2021.**

36           **(4) This subsection shall not apply to any rural electric cooperative organized or**  
37 **operating under the provisions of chapter 394, or to any corporation organized on a**  
38 **nonprofit or a cooperative basis as described in subsection 1 of section 394.200, or to any**  
39 **electrical corporation operating under a cooperative business plan as described in**  
40 **subsection 2 of section 393.110.**

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