

SECOND REGULAR SESSION

HOUSE BILL NO. 2541

102ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE HURLBERT.

5356H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To amend chapter 393, RSMo, by adding thereto one new section relating to electric 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
2 known as section 393.2200, to read as follows:

393.2200. 1. As used in this section the following terms shall mean:

2 (1) "Commission", the public service commission established under section
3 **386.040;**

4 (2) "Electrical corporation", the same as defined in section 386.020, but shall not
5 include an electrical corporation as described in subsection 2 of section 393.110;

6 (3) "Generating facility", any electric generating plant or improvement to
7 existing electricity generation facilities;

8 (4) "Stake", an electrical corporation's whole or fractional ownership share or
9 leasehold or other proprietary interest in a generating facility or transmission facility
10 that may be acquired by construction, purchase, lease or other means;

11 (5) "Transmission facility":

12 (a) Any existing line, and supporting structures and equipment, being upgraded
13 for the transmission of electricity with an operating voltage of one hundred kilovolts or
14 more of electricity; or

15 (b) Any new line, and supporting structures and equipment, being constructed
16 for the transmission of electricity with an operating voltage of one hundred kilovolts or
17 more of electricity;

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 (6) "Weighted average cost of capital", the return on rate base used to
19 determine the revenue requirement in the electrical corporation's most recently
20 completed general rate proceeding; provided, that in the absence of a commission
21 determination of the return on rate base within the three-year period prior to August
22 28, 2024, the weighted average cost of capital shall be determined using the electrical
23 corporation's actual capital structure as of December 31, 2023, excluding short-term
24 debt, the electrical corporation's actual cost of long-term debt and preferred stock as of
25 December 31, 2023, and a cost of common equity of nine and one-half percent.

26 2. (1) Prior to acquiring a stake in a transmission facility, an electrical
27 corporation may file with the commission an application for a determination of the
28 ratemaking principles and treatment, as proposed by the electrical corporation, that will
29 apply to the reflection in rates of the cost to be incurred by the electrical corporation to
30 acquire such electrical corporation's stake in the transmission facility during the
31 expected useful life of the transmission facility.

32 (2) Unless the commission determines that the electrical corporation's stake in
33 the transmission facility is not reasonable, the commission shall issue an order setting
34 forth the ratemaking principles and treatment that will be applicable to the electrical
35 corporation's stake in the transmission facility in all ratemaking proceedings on and
36 after such time as the transmission facility is placed in service.

37 (3) The commission in all proceedings in which the cost of the electrical
38 corporation's stake in the transmission facility is considered shall utilize the ratemaking
39 principles and treatment applicable to the transmission facility.

40 (4) If the commission fails to issue a determination within one hundred eighty
41 days of the date an application for a determination of ratemaking principles and
42 treatment is filed, the ratemaking principles and treatment proposed by the electrical
43 corporation making such application will be deemed to have been approved by the
44 commission and shall be binding for ratemaking purposes during the useful life of the
45 transmission facility.

46 (5) If the electrical corporation's acquisition of a stake in a transmission facility
47 requires a certificate of convenience and necessity under the provisions of subsection 1
48 of section 393.170, the electrical corporation may elect to request such certificate by
49 filing an application in the same proceeding in which the application for a determination
50 of ratemaking principles and treatment is filed. In that event, if the commission fails to
51 issue a determination regarding the application for a certificate of convenience and
52 necessity within one hundred eighty days of the date such application is filed, the
53 application shall be deemed to have been approved by the commission and shall be
54 binding for all purposes.

55 **3. (1) Prior to acquiring a stake in a generating facility, or prior to retiring or**
56 **abandoning a generating facility, or within a reasonable time after retirement or**
57 **abandonment if filing before retirement or abandonment is not possible under the**
58 **circumstances, an electrical corporation may file with the commission an application for**
59 **a determination of the ratemaking principles and treatment, as proposed by the**
60 **electrical corporation, that will apply to:**

61 **(a) Reflection in rates of the cost to be incurred by the electrical corporation to**
62 **acquire such electrical corporation's stake in the generating facility during the expected**
63 **useful life of the generating facility; or**

64 **(b) Reflection in rates of the costs to be incurred and the cost savings to be**
65 **achieved by the electrical corporation in retiring or abandoning such electrical**
66 **corporation's stake in the generating facility, including, but not limited to, the**
67 **reasonableness of such retirement or abandonment.**

68 **(2) Any electrical corporation seeking a determination of ratemaking principles**
69 **and treatment under subsection 3 of this section shall as a part of its filing describe how**
70 **its stake in the generating facility is consistent with the electrical corporation's most**
71 **recent preferred plan as the term "preferred plan" is used under the provisions of**
72 **Chapter 22 of 20 CSR 4240 as of December 31, 2023.**

73 **(3) In considering the electrical corporation's preferred plan, the commission**
74 **may consider if the electrical corporation issued a request for proposal for generating**
75 **facilities from a wide audience of participants willing and able to meet the needs**
76 **identified under the electrical corporation's preferred plan, and if the plan selected by**
77 **the electrical corporation is reasonable.**

78 **(4) Unless the commission determines that the electrical corporation's stake in**
79 **the generating facility is not reasonable, the commission shall issue an order setting**
80 **forth the ratemaking principles and treatment that will be applicable to the electrical**
81 **corporation's stake in the generating facility in all ratemaking proceedings and any**
82 **securitization proceeding under section 393.1700 respecting the electrical corporation's**
83 **stake in the generating facility on and after such time as the generating facility is:**

84 **(a) Placed in service on the utility's books; or**

85 **(b) Retired or abandoned.**

86 **(5) With respect to a new gas-fired generating facility or a new small modular**
87 **nuclear generating facility, unless the commission timely elects not to set forth**
88 **ratemaking principles applicable in the future on the grounds that acquiring a stake in**
89 **such a generating facility is not reasonable, notwithstanding any other provisions of this**
90 **chapter to the contrary including, but not limited to, the provisions of section 393.135,**
91 **the electrical corporation shall be permitted, at its election, to implement a new rate**

92 **adjustment mechanism, to become effective not sooner than three hundred sixty-five**
93 **days after construction of such a generating facility begins and within thirty days after**
94 **filing by the electrical corporation, designed to recover the return on one hundred**
95 **percent of amounts recorded to construction work in progress on the utility's books for**
96 **the electrical corporation's stake in such a generating facility at the weighted average**
97 **cost of capital without offset, adjustment, or reduction for any other issue or**
98 **consideration, provided that such return shall be in lieu of any otherwise applicable**
99 **allowance for funds used during construction that would have accrued from and after**
100 **the effective date of such rate adjustment mechanism. Such rate adjustment mechanism**
101 **shall be subject to periodic increases, without adjustment, offset, or reduction for any**
102 **other issue or consideration, no more frequently than every six months, as construction**
103 **of the electrical corporation's stake in such a generating facility continues and the**
104 **balance of construction work in progress grows. Customers shall be charged under**
105 **such rate adjustment mechanism until such time as new base rates reflecting the**
106 **electrical corporation's investment in such a generating facility take effect, with such**
107 **base rates to include carrying costs on any unrecovered portion of such investment at**
108 **the electrical corporation's weighted average cost of capital as determined in the**
109 **proceeding setting such base rates between the date such generating facility was placed**
110 **in service on the electrical corporation's books and the effective date of base rates in**
111 **such proceeding. Such new rate adjustment mechanism shall be permitted to remain in**
112 **effect for a period not to exceed six years.**

113 **(6) As an alternative to the rate adjustment mechanism authorized under**
114 **subdivision (5) of this subsection for a new gas-fired generating facility or a new small**
115 **modular nuclear generating facility, unless the commission timely elects not to set forth**
116 **ratemaking principles applicable in the future on the grounds that acquiring a stake in**
117 **such a generating facility is not reasonable, the electrical corporation shall be permitted,**
118 **at its election, to implement a new temporary rate, to become effective no later than**
119 **thirty days after such a generating facility is placed in-service on the utility's books,**
120 **designed to recover one hundred percent of the depreciation expense and the return on**
121 **rate base on the electrical corporation's stake in such a generating facility at the**
122 **electrical corporation's weighted average cost of capital plus applicable federal, state,**
123 **and local income or excise taxes, and reduced for the effects of accumulated deferred**
124 **income taxes created by such a generating facility, without adjustment, offset, or**
125 **reduction for any other issue or consideration. Such rate element shall be permitted to**
126 **remain in effect for a period not to exceed three hundred sixty-five days. Customers**
127 **shall be charged under such rate element until such time as new base rates reflecting the**
128 **electrical corporation's investment in such a generating facility take effect.**

129 (7) The commission in all proceedings in which the cost of the electrical
130 corporation's stake in the generating facility is considered shall utilize the ratemaking
131 principles and treatment applicable to the generating facility or retired or abandoned
132 generating facility.

133 (8) If the commission fails to issue a determination within one hundred eighty
134 days of the date an application for a determination of ratemaking principles and
135 treatment is filed, the ratemaking principles and treatment proposed by the electrical
136 corporation making such application will be deemed to have been approved by the
137 commission and shall be binding for ratemaking purposes during the useful life of the
138 generating facility, or during the period when the cost of the retired or abandoned
139 generating facility is reflected in customer rates.

140 (9) If the electrical corporation's acquisition of a stake in a generation facility
141 requires a certificate of convenience and necessity under the provisions of subsection 1
142 of section 393.170, the electrical corporation may elect to request such certificate by
143 filing an application in the same proceeding in which the application for a determination
144 of ratemaking principles and treatment is filed. In that event, if the commission fails to
145 issue a determination regarding the application for a certificate of convenience and
146 necessity within one hundred eighty days of the date such application is filed, the
147 application shall be deemed to have been approved by the commission and shall be
148 binding for all purposes.

149 4. In making its determination as to whether acquiring a stake in the generating
150 facility is reasonable and necessary or convenient for the public service under subsection
151 1 of section 393.170, if applicable, the commission shall be guided by the fact that it is in
152 the interest of the state of Missouri for electrical corporations to ensure that they own
153 and operate sufficient generating resources to serve their retail load without undue
154 reliance on any power pool, regional transmission operator or independent system
155 operator market, or other resources not owned or controlled by the electrical
156 corporation.

157 5. The electrical corporation shall have one year from the effective date of the
158 determination of the commission to notify the commission whether it will acquire a
159 stake in the generating facility or transmission facility, or whether it will retire or
160 abandon the generating facility.

161 6. If the electrical corporation notifies the commission within the one-year
162 period that the electrical corporation will not construct or participate in the
163 construction of the generating or transmission facility, or that it will not retire or
164 abandon the generating facility, the determination of ratemaking principles pursuant to
165 subsection 2 or 3 of this section shall be of no further force or effect, shall have no

166 **precedential value in any subsequent proceeding, and there shall be no adverse**
167 **presumption applied in any future proceeding as a result of such notification.**

168 **7. If the electrical corporation notifies the commission under subsection 5 of this**
169 **section that it will acquire a stake in a generating facility and subsequently does not, or**
170 **that it will retire or abandon a generating facility and subsequently does not, it will be**
171 **required to notify the commission immediately by making a filing in the proceeding it**
172 **initiated under this section and provide a notification of a change in preferred resource**
173 **plan consistent with the requirements of 20 CSR 4240-22.080(12) as those requirements**
174 **exist on December 31, 2023.**

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