

FIRST REGULAR SESSION

HOUSE BILL NO. 853

103RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE HURLBERT.

2153H.01I

JOSEPH ENGLER, Chief Clerk

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Section A. Section 393.135, RSMo, is repealed and three new sections enacted in lieu thereof, to be known as sections 393.135, 393.1080, and 393.1090, to read as follows: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 in rate base. The commission shall determine, in a proceeding under section 393.170, the amount of construction work in progress that may be included in rate base. The amount shall be limited by the estimated cost of such project and project expenditures made within the estimated construction period for such project. Base rate recoveries arising from inclusion of construction work in progress in base rates are

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 subject to refund, together with interest on the refunded amount at the same rate as the
19 rate of interest for delinquent taxes determined by the director of revenue in accordance
20 with section 32.065, if, and to the extent the commission determines, in a subsequent
21 complaint or general rate proceeding, that construction costs giving rise to the
22 construction work in progress included in rate base were imprudently incurred. Return
23 deferred under subdivision (2) of subsection 3 of section 393.1400 for plant that has been
24 included in base rates as construction work in progress shall offset the amounts deferred
25 under section 393.1400.

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

393.1080. 1. The commission may require electrical corporations to provide
2 documentation annually, in a format determined by the commission, reflecting its plan
3 to own or have rights to sufficient capacity to meet its capacity obligations for the
4 upcoming planning year and each of the three subsequent planning years. Electrical
5 corporations shall submit such documentation, which shall include its capacity position
6 for the upcoming and three subsequent planning years consistent with resource
7 adequacy requirements of the appropriate regional transmission organization or
8 independent system operator or commission, including by season or other applicable
9 period, within thirty days after the appropriate regional transmission organization or
10 independent system operator or commission, if applicable, makes a final determination
11 as to the electrical corporation's resource adequacy requirements for the upcoming
12 planning year.

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

17 3. If an electrical corporation fails to have sufficient capacity for the upcoming
18 planning year and it is determined by the commission to be the result of the electrical
19 corporation's imprudence, the commission may disallow, after a hearing, any associated
20 costs related to said failure in a future proceeding. The commission may require
21 submission of a plan within six months to resolve any expected capacity deficiency for
22 the subsequent three planning years.

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

24 (1) "Appropriate regional transmission organization or independent system
25 operator", the Midcontinent Independent System Operator or the Southwest Power
26 Pool, or any successor organization;

27 (2) "Sufficient capacity", owned or contracted-for capacity that meets the
28 planning reserve margin or successor metric established by the appropriate regional
29 transmission organization or independent system operator or, in the case of an electrical
30 corporation that is not a participant in a regional transmission organization or
31 independent system operator, that meets the planning reserve margin or successor
32 metric established by the commission.

33 5. The commission may promulgate rules necessary to implement the provisions
34 of this section. Any rule or portion of a rule, as that term is defined in section 536.010,
35 that is created under the authority delegated in this section shall become effective only if
36 it complies with and is subject to all of the provisions of chapter 536 and, if applicable,
37 section 536.028. This section and chapter 536 are nonseverable and if any of the powers
38 vested with the general assembly pursuant to chapter 536 to review, to delay the
39 effective date, or to disapprove and annul a rule are subsequently held unconstitutional,
40 then the grant of rulemaking authority and any rule proposed or adopted after August
41 28, 2025, shall be invalid and void.

 393.1090. 1. The commission shall, by August 28, 2026, and every four years or
2 as needed thereafter, commence an integrated resource planning proceeding for
3 electrical corporations, to be conducted under the rules to be adopted to implement this
4 section. As part of such proceeding, the commission shall:

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

8 (2) Identify significant existing or proposed state or federal environmental
9 regulations, laws, or rules and identify how each such regulation, law, or rule would
10 apply to electrical corporations in this state;

11 (3) Establish an alternative resource plan or plans that shall be included in
12 electrical corporation integrated resource filings required by subsection 3 of this section
13 and the factors that each electrical corporation should take into account in developing
14 such plans including, but not limited to, all of the following:

15 (a) Projected planning reserve margins and local clearing requirements and the
16 environmental regulations, laws, or rules identified in subdivisions (1) and (2) of this
17 subsection, respectively;

18 (b) Projections of future loads, including both energy and capacity over the
19 planning period;

20 (c) The supply-side and demand-side resources that reasonably could address
21 any need for additional energy and capacity including, but not limited to, the type of
22 generation technology for any proposed generation facility, projected load impact due to
23 electrification or economic development projects, and projected load management and
24 demand response savings;

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

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

28 (4) Identify or designate any software, data standards, and formatting to be used
29 in modeling the alternative resource plan or plans under subdivision (3) of this
30 subsection; and

31 (5) Complete such proceeding no less than eighteen months prior to the first
32 integrated resource plan filing provided for by subsection 2 of this section.

33 2. Not later than August 28, 2027, the commission shall, under rules to be
34 adopted to implement this section, publish a schedule for electrical corporations to file
35 integrated resource plans every four years, with the first integrated resource plan filing
36 to occur not before the first day of the nineteenth month after publication of such
37 schedule. Each electrical corporation shall, according to the published schedule, file
38 with the commission an integrated resource plan that includes an alternative resource
39 plan or plans meeting the requirements of subdivision (3) of subsection 1 of this section
40 and such other alternative resource plans as the electrical corporation deems
41 appropriate. All alternative resource plans shall cover a minimum sixteen-year
42 planning horizon. All such plans shall reflect projections of the corporation's load
43 obligations and how under each such plan the electrical corporation would reliably meet
44 its projected load obligations over such periods consistent with applicable planning
45 reserve margins, local clearing requirements, and applicable state and federal
46 environmental regulations, laws, or rules.

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

49 (1) Information regarding generating units in the electrical corporation's
50 existing portfolio including, but not limited to, unit characteristics; current and
51 expected accredited capacity by season; licensing status; current depreciation rates for
52 each generating unit; currently expected retirement dates and, if applicable, any
53 remaining useful life of each generating unit, and identification of potential capital
54 projects that are reasonably expected to result in the extension of the retirement date of
55 each generating unit;

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

61 (3) Identification of the generation attributes necessary for the provision of safe
62 and adequate service at just and reasonable rates. As used in this section "generation
63 attributes" means the capacity, energy, and other generating unit capabilities used in
64 regional energy and capacity markets to differentiate services that can be provided by
65 various types of generating units;

66 (4) Analysis of the cost, performance, expected accredited capacity by season,
67 and viability of all reasonable options available to meet projected generation attribute
68 needs including, but not limited to, existing electric generation facilities and an
69 explanation of why it selected the options it did for its plans;

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

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

74 (7) Projections of rate impacts, including from fuel costs of the top four
75 alternative resource plans, and including the preferred plan for the periods covered by
76 the plan;

77 (8) Forecasts of the electrical corporation's sales by hour under various
78 reasonable scenarios;

79 (9) The types of generation technologies proposed for generation facilities
80 contained in the plans and the proposed accredited capacity of the generation facilities
81 as estimated by the corporation and the relevant regional transmission organization or
82 independent system operator, including projected fuel costs under various reasonable
83 scenarios;

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

86 (11) Analysis of the projected firm gas transportation contracts or natural gas
87 storage the electrical corporation will hold to provide an adequate supply of fuel to a
88 new generation facility. As used in this section, "firm gas transportation" means an
89 anticipated agreement entered into between the electrical corporation and a natural gas
90 transmission provider for a set period to provide firm delivery of natural gas to an
91 electric generation facility;

92 (12) Projected load management, demand response impact, and peak demand
93 reduction for the electrical corporation including, but not limited to, the magnitude of
94 expected load impacts during the anticipated hours, seasons, and years and the
95 projected costs for those programs;

96 (13) An explanation of how the electrical corporation will comply with all
97 applicable state and federal environmental regulations, laws, and rules and the
98 projected costs of complying with those regulations, laws, and rules;

99 (14) Expected resource planning and system impacts of draft programs and
100 mechanisms associated with new load, reduced load, or retained load associated with
101 economic development rates or riders and programs offered in accordance with section
102 393.1075, as well as other programs offered under any other authority;

103 (15) Results from a request for information or proposals to provide any new
104 supply-side resources needed to serve the corporation's projected electric load,
105 applicable planning reserve margin, and local clearing requirement during the initial
106 four-year planning period. The request for information or proposals may define
107 qualifying performance standards, contract terms, technical competence, capability,
108 reliability, creditworthiness, past performance, and other criteria that responses and
109 respondents to the request for information shall meet in order to be considered by the
110 corporation in its integrated resource plan. Respondents to a request for information or
111 proposals may request that certain proprietary information be treated as confidential or
112 highly confidential pursuant to the commission's governing rules. A corporation that
113 issues a request for information or proposals under this subsection shall use the
114 resulting information or proposals to inform its integrated resource plan and include all
115 of the submitted information or proposals as attachments to its integrated resource plan
116 filing;

117 (16) Selection of a preferred resource plan;

118 (17) Delineation of an implementation plan covering a four-year implementation
119 period ending three hundred sixty-five days after the electrical corporation's next-
120 scheduled quadrennial integrated resource plan filing, which shall specify the
121 construction or acquisition by the utility of specific supply-side resources or a
122 specified quantity of supply-side resources by supply-side resource type, or both, for
123 which construction or acquisition is planned to commence within said four-year
124 implementation period; and

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

126 4. The commission shall, after a hearing, issue a report and order no later than
127 three hundred sixty days after the electrical corporation files an integrated resource
128 plan under this section unless extended for good cause by the commission. Up to one

hundred fifty days after an electrical corporation makes its initial integrated resource plan filing, the electrical corporation may file to update the cost estimates provided under subdivision (2) of subsection 3 of this section if those cost estimates have materially changed. An electrical corporation shall not modify any other aspect of the initial integrated resource plan filing unless the commission grants the electrical corporation the ability to do so. The commission's report and order shall determine whether the electrical corporation has sufficiently submitted and selected a preferred resource plan that represents a reasonable and prudent means of meeting the electrical corporation's load serving obligations at just and reasonable rates. In making this determination, the commission shall consider whether it appropriately balances all of the following factors:

(1) Resource adequacy to serve anticipated peak electric load and seasonal peak demand forecasts, applicable planning reserve margin, local clearing requirements, and the role of energy and capacity markets;

(2) Reliability;

(3) Rate impacts;

(4) Overall cost-effectiveness in providing service;

(5) Commodity price risks;

(6) Diversity of supply-side resources;

(7) Competitive pricing;

(8) Participation in regional transmission organization markets; and

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

5. (1) If the commission determines that the preferred resource plan is a reasonable and prudent means of meeting the electrical corporation's load serving obligations, such determination shall constitute commission permission for the electrical corporation to construct or acquire the specific supply-side resources, or a specified quantity of supply-side resources by supply-side resource type, or both, that were reflected in the implementation plan submitted under subdivision (15) of subsection 3 of this section, provided that construction commences or the acquisition agreement is executed within the four-year implementation period. With respect to such resources, when the electrical corporation files an application for a certificate of convenience and necessity to authorize construction or acquisition of such resource or resources under subsection 1 of section 393.170, the commission shall be deemed to have determined that the supply-side resources for which such a determination was made are necessary or convenient for the public service. In such a certificate of convenience and necessity proceeding, the commission's inquiry shall be limited to considering the electrical corporation's qualifications to construct and operate the resources, its ability to finance

the construction or acquisition of the resources, and siting considerations. The commission shall take all reasonable steps to expedite such a certificate of convenience and necessity proceeding and, in any event, shall issue its decision in such a proceeding within one hundred twenty days of the date that the electrical corporation files its application. An electrical corporation shall annually, or more frequently if required by the commission, report to the commission regarding the status of supply-side resources being implemented during the implementation period.

(2) If the commission determines that the preferred resource plan, in whole or in part, is not a reasonable and prudent means of meeting the electrical corporation's load serving obligations, the commission shall have the authority to specify in its report and order the deficiencies in the preferred resource plan and may require the electrical corporation to make a further filing within sixty days after issuance of the report and order addressing the deficiencies and the electrical corporation may propose modifications to its original preferred resource plan. If such an order requiring a further filing by the electrical corporation is issued, the commission's report and order issued under this subsection shall not be final for purposes of rehearing under section 386.500 or appeal under section 386.510. Other parties to the integrated resource plan docket shall have sixty days to respond to the electrical corporation's further filing unless extended for good cause by the commission. Within sixty days after the deadline for such other parties' filings, the commission shall issue its report and order, which shall be final for purposes of rehearing under section 386.500, and appeal under section 386.510 indicating whether the deficiencies have been adequately addressed by the electrical corporation's further filing, and the commission may approve the electrical corporation's modified preferred resource plan and may approve specific supply-side resources or a specified quantity of supply-side resources by supply-side resource type, or both. If the commission finds continued deficiencies in the electrical corporation's modified preferred resource plan:

(a) The commission may, under the procedures provided for in section 393.270, initiate a complaint proceeding;

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

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

(3) Notwithstanding section 393.135 to the contrary, if approved in a proceeding granting permission and approval under subsection 1 of section 393.170, electrical

203 corporations may, subject to the limitations provided for in this subdivision (3), be
204 permitted to include in rate base amounts recorded to construction work in progress for
205 the investments for which permission is given under subdivision (1) of subsection 5 of
206 this section. The inclusion of construction work in progress allowed under this
207 subdivision shall be in lieu of any otherwise applicable allowance for funds used during
208 construction that would have accrued from and after the effective date of new base rates
209 that reflect inclusion of the construction work in progress in rate base. The commission
210 shall determine, in a proceeding under section 393.170, the amount of construction work
211 in progress that may be included in rate base. The amount shall be limited by the
212 estimated cost of such project and project expenditures made within the estimated
213 construction period for such project. Base rate recoveries arising from inclusion of
214 construction work in progress in base rates are subject to refund, together with interest
215 on the refunded amount at the same rate as the rate of interest for delinquent taxes
216 determined by the director of revenue in accordance with section 32.065, if and to the
217 extent the commission determines, in a subsequent complaint or general rate
218 proceeding, that construction costs giving rise to the construction work in progress
219 included in rate base were imprudently incurred. Return deferred under subdivision
220 (2) of subsection 3 of section 393.1400 for a plant that has been included in base rates as
221 construction work in progress shall offset the amounts deferred under section 393.1400.

222 6. The commission shall promulgate rules necessary to implement the provisions
223 of this section. Any rule or portion of a rule, as that term is defined in section 536.010,
224 that is created under the authority delegated in this section shall become effective only if
225 it complies with and is subject to all of the provisions of chapter 536 and, if applicable,
226 section 536.028. This section and chapter 536 are nonseverable and if any of the powers
227 vested with the general assembly pursuant to chapter 536 to review, to delay the
228 effective date, or to disapprove and annul a rule are subsequently held unconstitutional,
229 then the grant of rulemaking authority and any rule proposed or adopted after August
230 28, 2025, shall be invalid and void.

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