

FIRST REGULAR SESSION

HOUSE BILL NO. 1084

103RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE OEHLERKING.

2518H.01I

JOSEPH ENGLER, Chief Clerk

AN ACT

To repeal section 393.135, RSMo, and to enact in lieu thereof three new sections relating to electric utilities.

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Section A. Section 393.135, RSMo, is repealed and three new sections enacted in lieu thereof, to be known as sections 393.135, 393.1250, and 393.1900, to read as follows: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 provided for in this subsection, to include any amounts recorded to construction work in progress for any new natural gas generating unit in the corporation's ratemaking rate base. 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:

(a) The estimated cost of such project; and

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.

17 **(b) Project expenditures made within the estimated construction period for such**
18 **project.**

19

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

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

393.1250. 1. This section shall be known and may be cited as the "Missouri
2 **Nuclear Clean Power Act", the purpose of which is to enable the construction of clean**
3 **baseload electric generating plants. This section shall not apply to clean baseload**
4 **electric generating plants that are in commercial operation before August 28, 2025.**

5 **2. As used in this section, the following terms mean:**

6 **(1) "Clean baseload generating plant", a new nuclear-fueled electric generating**
7 **facility located in this state that is designed to be operated at six hundred megawatts or**
8 **less and is intended in whole or in part to serve retail customers of an electrical**
9 **corporation in Missouri;**

10 **(2) "Construction work in progress", the electrical corporation's share of all**
11 **capital costs associated with a clean baseload generating plant or renewable source**
12 **generating facility, which have been incurred but have not been included in the**
13 **electrical corporation's plant in service, and are recorded in the Federal Energy**
14 **Regulatory Commission's Uniform System of Accounts Prescribed for Public Utilities**
15 **and Licensees Subject to the Provisions of the Federal Power Act, Balance Sheet Chart**
16 **Accounts, as construction work in progress for electric plants in 18 CFR Part 101, or**
17 **any other account established in the Uniform System of Accounts for the recording of**
18 **construction work in progress.**

19 **3. The provisions of section 393.135 shall not apply to a clean baseload**
20 **generating plant if the plant is rated at six hundred megawatts or less. Before any such**
21 **construction work begins, an electrical corporation seeking to include construction**
22 **work in progress in rates shall file with the commission a plan detailing the projected**
23 **costs of the project and the plan to recover those costs through rates. Costs recovered**
24 **by an electrical corporation under the provisions of this section are subject to inclusion**
25 **or exclusion from rates in a ratemaking proceeding pursuant to the commission's**
26 **authority to determine just and reasonable rates. In addition, the commission may**
27 **authorize an electrical corporation to make or demand charges for service based in**
28 **whole or in part on additional amortizations to maintain the electrical corporation's**
29 **financial ratios that will, in the commission's judgment, better enable the electrical**
30 **corporation to cost-effectively construct a clean baseload generating plant.**

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

393.1900. 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. As part of such proceeding, the commission shall:**

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

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

10 **(3) Establish an alternative resource plan or plans that shall be included in an**
11 **electrical corporation's integrated resource plan filing pursuant to subsection 3 of this**
12 **section, and the factors that each electrical corporation may take into account in**
13 **developing such plans, including, but not limited to, all of the following:**

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

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

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

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

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

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

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

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

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

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

53 projects that are reasonably expected to result in the extension of the retirement date of
54 each generating unit;

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

60 (3) Identification of the generation attribute necessary for the provision of safe
61 and adequate service at just and reasonable rates;

62 (4) Analysis of the cost, performance, expected accredited capacity by season,
63 and viability of all reasonable options available to meet projected generation attribute
64 needs, including, but not limited to, existing electric generation facilities, and an
65 explanation why an electrical corporation selected the options outlined in the plan;

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

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

70 (7) Projections of rate impacts including rate impacts from fuel costs of the top
71 four alternative resource plans including the preferred plan for the periods covered by
72 the plan;

73 (8) Forecasts of the electrical corporation's sales by hour under reasonable
74 scenarios;

75 (9) The types of generation technologies proposed for generation facilities
76 contained in the plans and the proposed accredited capacity of the generation facilities
77 as estimated by the corporation and the relevant regional transmission organization or
78 independent system operator, including projected fuel costs under reasonable scenarios;

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

81 (11) Analysis of the projected firm gas transportation contracts or natural gas
82 storage the electrical corporation will hold to provide an adequate supply of fuel to new
83 generation facilities;

84 (12) Projected load management, demand response impact, and peak demand
85 reduction for the electrical corporation, including, but not limited to, the magnitude of
86 expected load impacts during the anticipated hours, seasons, and years and the
87 projected costs for such plans;

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

91 (14) Expected resource planning and system impacts of draft programs and
92 mechanisms associated with new load, reduced load, or retained load associated with
93 economic development rates or riders and programs offered in accordance with section
94 393.1075, as well as other programs offered under current law;

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

109 (16) Selection of a preferred resource plan;

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

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

118 4. The commission shall, after a hearing is conducted, issue a report and order
119 no later than three hundred sixty days after the electrical corporation files an integrated
120 resource plan under this section, unless the commission grants itself an extension for
121 good cause for the issuance of the report and order. Up to one hundred fifty days after
122 an electrical corporation makes its initial integrated resource plan filing, the electrical
123 corporation may file an update of the cost estimates provided under subdivision (2) of
124 subsection 3 of this section if the 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 submitted sufficient documentation 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 the determination, the commission shall consider whether the plan 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 the commission's permission for the electrical corporation to construct or acquire the specified 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 pursuant to 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 interest. 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, the electrical corporation's 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 shall

162 issue its decision in such a proceeding within one hundred twenty days of the date that
163 the electrical corporation files its application. An electrical corporation shall annually,
164 or more frequently if required by the commission, report to the commission the status of
165 supply-side resources being implemented during the implementation period.

166 (2) If the commission determines that the preferred resource plan, in whole or in
167 part, is not a reasonable and prudent means of meeting the electrical corporation's load
168 serving obligations, the commission shall have the authority to specify in its report and
169 order the deficiencies in the preferred resource plan and may require the electrical
170 corporation to make a further filing within sixty days after issuance of the report and
171 order addressing the deficiencies and the electrical corporation may propose
172 modifications to its original preferred resource plan. If such an order requiring a
173 further filing by the electrical corporation is issued, the commission's report and order
174 issued under this subsection shall not be final for purposes of rehearing pursuant to
175 section 386.500 or an appeal pursuant to section 386.510. Other parties to the
176 integrated resource plan docket shall have sixty days to respond to the electrical
177 corporation's further filing, unless the commission grants an extension for good cause to
178 respond to the electrical corporation's further filing. Within sixty days after the
179 deadline for such other parties' filings, the commission shall issue a report and order,
180 which shall be final for purposes of rehearing pursuant to section 386.500, and appeal
181 pursuant to section 386.510, indicating whether the deficiencies have been cured by the
182 electrical corporation's further filing and the commission may approve the electrical
183 corporation's modified preferred resource plan and may approve specific supply-side
184 resources, or a specified quantity of supply-side resources by supply-side resource type,
185 or both. If the commission finds continued deficiencies in the electrical corporation's
186 modified preferred resource plan:

187 (a) The commission may initiate a complaint proceeding pursuant to the
188 provisions of section 393.270;

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

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

195 (3) Notwithstanding section 393.135 to the contrary, if approved in a proceeding
196 granting permission and approval under subsection 1 of section 393.170, an electrical
197 corporation may be permitted to include in the corporation's rate base any amounts
198 recorded to construction work in progress for the investments for which permission is

199 given under subdivision (1) of subsection 5 of this section. The inclusion of construction
200 work in progress shall be in lieu of any otherwise applicable allowance for funds used
201 during construction that would have accrued from and after the effective date of new
202 base rates that reflect inclusion of the construction work in progress in rate base. The
203 commission shall determine, in a proceeding under section 393.170, the amount of
204 construction work in progress that may be included in rate base. The amount shall be
205 limited by:

206 (a) The estimated cost of such project; and
207 (b) Project expenditures made within the estimated construction period for such
208 project. Base rate recoveries arising from inclusion of construction work in progress in
209 base rates are subject to refund, together with interest on the refunded amount at the
210 same rate as the rate of interest for delinquent taxes determined by the director of
211 revenue in accordance with section 32.065, if and to the extent the commission
212 determines, in a subsequent complaint or general rate proceeding, that construction
213 costs giving rise to the construction work in progress included in rate base were
214 imprudently incurred. Return deferred under subdivision (2) of subsection 3 of section
215 393.1400 for plant that has been included in base rates as construction work in progress
216 shall offset the amounts deferred under section 393.1400.

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

226 7. As used in this section, the following terms shall mean:

227 (1) "Firm gas transportation", an anticipated agreement entered into between
228 the electrical corporation and a natural gas transmission provider for a set period of
229 time to provide firm delivery of natural gas to an electric generation facility;

230 (2) "Generation attribute", the capacity, energy, and other generating unit
231 capabilities used in regional energy and capacity markets to differentiate services that
232 can be provided by various types of generating units.