

FIRST REGULAR SESSION

# HOUSE BILL NO. 134

## 99TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE BERRY.

0122H.011

D. ADAM CRUMBLISS, Chief Clerk

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### AN ACT

To repeal sections 393.135 and 393.136, RSMo, and to enact in lieu thereof one new section relating to electrical corporations.

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

Section A. Sections 393.135 and 393.136, RSMo, are repealed and one new section enacted in lieu thereof, to be known as section 393.134, to read as follows:

**393.134. 1. As used in this section, unless the context clearly indicates otherwise, the following terms mean:**

3       **(1) "Commission", the Missouri public service commission;**

4       **(2) "General rate proceeding", a proceeding before the commission under this**  
5 **chapter and other provisions allowing the commission to review electric rates and charges,**  
6 **including all orders and revised rate proceedings in connection thereto;**

7       **(3) "Generating facility", any type of expansion or addition to an existing**  
8 **generating plant necessary to increase the generating capacity of such plant;**

9       **(4) "Generating plant", an electrical generating plant that generates electricity that**  
10 **is intended in whole or in part to serve retail customers of an electrical corporation in**  
11 **Missouri;**

12       **(5) "Generation costs", all costs associated with the construction and placement**  
13 **into service of a generating plant or generating facility as determined by rule of the**  
14 **commission. The term "generation costs" shall include design, siting, selection, acquisition,**  
15 **licensing, testing, and taxation costs for constructing generating plants or generating**  
16 **facilities. The term "generation costs" shall not include operating costs; maintenance**  
17 **costs; repair costs; costs related to salaries and administration; costs related to safety 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.

18 security, including cybersecurity costs; regulatory costs unrelated to construction  
19 requirements; or any other costs not directly associated with the construction of generating  
20 plants or generating facilities.

21       2. Any costs that are not defined as generation costs under this section may be  
22 incorporated into an electrical corporation's rate base under this chapter or other general  
23 law or rule allowing such corporation to recover its costs through a general rate proceeding  
24 before the commission. Costs involving the past construction of currently operational  
25 generating plants and generating facilities that are defined as generation costs but that  
26 were incurred prior to the effective date of this section may also be incorporated into an  
27 electrical corporation's rate base.

28       3. Except as allowed under subsection 4 of this section:

29       (1) Any generation costs incurred on or after the effective date of this section shall  
30 not be incorporated into an electrical corporation's rate base or other rate adjustment  
31 before the commission; and

32       (2) Electrical corporations shall not impose a charge or surcharge upon any  
33 customer in order to recover any generation costs incurred on or after the effective date  
34 of this section.

35       4. Generation costs may be incorporated into an electrical corporation's rate base  
36 under this chapter or other general law or rule allowing such corporation to recover its  
37 costs through a general rate proceeding before the commission at such time as a generating  
38 plant or generating facility becomes fully operational.

39       5. The commission shall promulgate rules to implement the provisions of this  
40 section. Any rule or portion of a rule, as that term is defined in section 536.010, that is  
41 created under the authority delegated in this section shall become effective only if it  
42 complies with and is subject to all of the provisions of chapter 536 and, if applicable,  
43 section 536.028. This section and chapter 536 are nonseverable, and if any of the powers  
44 vested with the general assembly pursuant to chapter 536 to review, to delay the effective  
45 date, or to disapprove and annul a rule are subsequently held unconstitutional, then the  
46 grant of rulemaking authority and any rule proposed or adopted after August 28, 2017,  
47 shall be invalid and void.

2       ~~[393.135. Any charge made or demanded by an electrical corporation for~~  
3       ~~service, or in connection therewith, which is based on the costs of construction~~  
4       ~~in progress upon any existing or new facility of the electrical corporation, or any~~  
5       ~~other cost associated with owning, operating, maintaining, or financing any~~  
6       ~~property before it is fully operational and used for service, is unjust and~~  
7       ~~unreasonable, and is prohibited.]~~

2           ~~[393.136. Notwithstanding the foregoing, any such charge which is being~~  
3           ~~made or demanded on November 2, 1976, shall not be deemed unjust or~~  
4           ~~unreasonable by reason of section 393.135, and shall not be prohibited thereby,~~  
                  ~~for a period of ninety days after the effective date of this law.]~~

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