

SECOND REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]
SENATE SUBSTITUTE FOR

SENATE BILL NO. 705

99TH GENERAL ASSEMBLY

2018

5110S.02T

AN ACT

To repeal section 386.266, RSMo, and to enact in lieu thereof two new sections relating to rate adjustments outside of general rate proceedings for certain public utilities.

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

Section A. Section 386.266, RSMo, is repealed and two new sections
2 enacted in lieu thereof, to be known as sections 386.266 and 393.358, to read as
3 follows:

386.266. 1. Subject to the requirements of this section, any electrical
2 corporation may make an application to the commission to approve rate schedules
3 authorizing an interim energy charge, or periodic rate adjustments outside of
4 general rate proceedings to reflect increases and decreases in its prudently
5 incurred fuel and purchased-power costs, including transportation. The
6 commission may, in accordance with existing law, include in such rate schedules
7 features designed to provide the electrical corporation with incentives to improve
8 the efficiency and cost-effectiveness of its fuel and purchased-power procurement
9 activities.

10 2. Subject to the requirements of this section, any electrical, gas, or water
11 corporation may make an application to the commission to approve rate schedules
12 authorizing periodic rate adjustments outside of general rate proceedings to
13 reflect increases and decreases in its prudently incurred costs, whether capital
14 or expense, to comply with any federal, state, or local environmental law,
15 regulation, or rule. Any rate adjustment made under such rate schedules shall

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

16 not exceed an annual amount equal to two and one-half percent of the electrical,
17 gas, or water corporation's Missouri gross jurisdictional revenues, excluding gross
18 receipts tax, sales tax and other similar pass-through taxes not included in
19 tariffed rates, for regulated services as established in the utility's most recent
20 general rate case or complaint proceeding. In addition to the rate adjustment, the
21 electrical, gas, or water corporation shall be permitted to collect any applicable
22 gross receipts tax, sales tax, or other similar pass-through taxes, and such taxes
23 shall not be counted against the two and one-half percent rate adjustment
24 cap. Any costs not recovered as a result of the annual two and one-half percent
25 limitation on rate adjustments may be deferred, at a carrying cost each month
26 equal to the utilities net of tax cost of capital, for recovery in a subsequent year
27 or in the corporation's next general rate case or complaint proceeding.

28 3. Subject to the requirements of this section, any gas corporation may
29 make an application to the commission to approve rate schedules authorizing
30 periodic rate adjustments outside of general rate proceedings to reflect the nongas
31 revenue effects of increases or decreases in residential and commercial customer
32 usage due to variations in either weather, conservation, or both.

33 4. **Subject to the requirements of this section, a water**
34 **corporation with more than eight thousand Missouri retail customers**
35 **may make an application to the commission to approve rate schedules**
36 **authorizing periodic rate adjustments outside of general rate**
37 **proceedings to ensure revenues billed by such water corporation for**
38 **regulated services equal the revenue requirement for regulated**
39 **services as established in the water corporation's most recent general**
40 **rate proceeding or complaint proceeding, excluding any other**
41 **commission-approved surcharges and gross receipts tax, sales tax, and**
42 **other similar pass-through taxes not included in tariffed rates, due to**
43 **any revenue variation resulting from increases or decreases in**
44 **residential, commercial, public authority, and sale for resale usage.**

45 5. The commission shall have the power to approve, modify, or reject
46 adjustment mechanisms submitted under subsections 1 to [3] 4 of this section
47 only after providing the opportunity for a full hearing in a general rate
48 proceeding, including a general rate proceeding initiated by complaint. The
49 commission may approve such rate schedules after considering all relevant factors
50 which may affect the costs or overall rates and charges of the corporation,

51 provided that it finds that the adjustment mechanism set forth in the schedules:

52 (1) Is reasonably designed to provide the utility with a sufficient
53 opportunity to earn a fair return on equity;

54 (2) Includes provisions for an annual true-up which shall accurately and
55 appropriately remedy any over- or under-collections, including interest at the
56 utility's short-term borrowing rate, through subsequent rate adjustments or
57 refunds;

58 (3) In the case of an adjustment mechanism submitted under subsections
59 1 and 2 of this section, includes provisions requiring that the utility file a general
60 rate case with the effective date of new rates to be no later than four years after
61 the effective date of the commission order implementing the adjustment
62 mechanism. However, with respect to each mechanism, the four-year period shall
63 not include any periods in which the utility is prohibited from collecting any
64 charges under the adjustment mechanism, or any period for which charges
65 collected under the adjustment mechanism must be fully refunded. In the event
66 a court determines that the adjustment mechanism is unlawful and all moneys
67 collected thereunder are fully refunded, the utility shall be relieved of any
68 obligation under that adjustment mechanism to file a rate case;

69 (4) In the case of an adjustment mechanism submitted under subsection
70 1 or 2 of this section, includes provisions for prudence reviews of the costs subject
71 to the adjustment mechanism no less frequently than at eighteen-month
72 intervals, and shall require refund of any imprudently incurred costs plus
73 interest at the utility's short-term borrowing rate.

74 [5.] 6. Once such an adjustment mechanism is approved by the
75 commission under this section, it shall remain in effect until such time as the
76 commission authorizes the modification, extension, or discontinuance of the
77 mechanism in a general rate case or complaint proceeding.

78 [6.] 7. Any amounts charged under any adjustment mechanism approved
79 by the commission under this section shall be separately disclosed on each
80 customer bill.

81 [7.] 8. The commission may take into account any change in business risk
82 to the corporation resulting from implementation of the adjustment mechanism
83 in setting the corporation's allowed return in any rate proceeding, in addition to
84 any other changes in business risk experienced by the corporation.

85 [8.] 9. In the event the commission lawfully approves an incentive- or

86 performance-based plan, such plan shall be binding on the commission for the
87 entire term of the plan. This subsection shall not be construed to authorize or
88 prohibit any incentive- or performance-based plan.

89 [9.] **10.** Prior to August 28, 2005, **for subsections 1 to 3 of this**
90 **section, and upon the effective date of this section for subsection 4 of**
91 **this section**, the commission shall have the authority to promulgate rules under
92 the provisions of chapter 536 as it deems necessary, to govern the structure,
93 content and operation of such rate adjustments, and the procedure for the
94 submission, frequency, examination, hearing and approval of such rate
95 adjustments. [Such rules shall be promulgated no later than one hundred fifty
96 days after the initiation of such rulemaking proceeding.] Any electrical, gas, or
97 water corporation may apply for any adjustment mechanism under this section
98 whether or not the commission has promulgated any such rules.

99 [10.] **11.** Nothing contained in this section shall be construed as affecting
100 any existing adjustment mechanism, rate schedule, tariff, incentive plan, or other
101 ratemaking mechanism currently approved and in effect.

102 [11.] **12.** Each of the provisions of this section is severable. In the event
103 any provision or subsection of this section is deemed unlawful, all remaining
104 provisions shall remain in effect.

105 [12.] **13.** The provisions of **subsections 1 to 3 of** this section shall take
106 effect on January 1, 2006, and the commission shall have previously promulgated
107 rules to implement the application process for any rate adjustment mechanism
108 under **subsections 1 to 3 of** this section prior to the commission issuing an
109 order for any rate adjustment.

110 [13.] **14.** The public service commission shall appoint a task force,
111 consisting of all interested parties, to study and make recommendations on the
112 cost recovery and implementation of conservation and weatherization programs
113 for electrical and gas corporations.

393.358. 1. For purposes of this section, the following terms shall
2 **mean:**

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

5 (2) "Water corporation", a corporation with more than one
6 thousand Missouri customers that otherwise meets the definition of
7 "water corporation" in section 386.020.

8 **2. Water corporations shall develop a qualification process open**
9 **to all contractors seeking to provide construction and construction-**
10 **related services for planned infrastructure projects on the water**
11 **corporation's distribution system. The water corporation shall specify**
12 **qualification requirements and goals for contractors seeking to perform**
13 **such work, including but not limited to experience, performance**
14 **criteria, safety record and policies, technical expertise, scheduling**
15 **needs and available resources, supplier diversity and insurance**
16 **requirements. Contractors that meet the qualification requirements**
17 **shall be eligible to participate in a competitive bidding process for**
18 **providing construction and construction-related services for planned**
19 **infrastructure projects on the water corporation's distribution system,**
20 **and the contractor making the lowest and best bid shall be awarded**
21 **such contract. For contractors not qualifying through the competitive**
22 **bid process, the water corporation, upon request from the contractor,**
23 **shall provide information from the process in which the contractor can**
24 **be informed as to how to be better positioned to qualify for such bid**
25 **opportunities in the future. Nothing in this section shall be construed**
26 **as requiring any water corporation to use third parties instead of its**
27 **own employees to perform such work, to use the contractor**
28 **qualification or competitive bidding process in the case of an**
29 **emergency project, or to terminate any existing contract with a**
30 **contractor prior to its expiration.**

31 **3. Within thirty days after the effective date of this section and**
32 **with the filing of a general rate proceeding initiated by the water**
33 **corporation, the water corporation shall file a statement with the**
34 **commission confirming it has established a qualification process**
35 **meeting the requirements of this section and that such process is used**
36 **for no less than ten percent of the corporation's external expenditures**
37 **for planned infrastructure projects on the water corporation's**
38 **distribution system. The commission shall have the authority to verify**
39 **the statements to ensure compliance with this section.**

40 **4. By December 31, 2020, the commission shall submit a report to**
41 **the general assembly on the effects of this section, including water**
42 **corporation compliance, the costs of performing planned infrastructure**
43 **projects prior to the implementation of this section compared to after**

44 the implementation of this section, and any other information
45 regarding the process established under this section that the
46 commission deems necessary.

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