

SECOND REGULAR SESSION

# HOUSE BILL NO. 1605

## 93RD GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES OXFORD (Sponsor), CHAPPELLE-NADAL,  
SPRENG AND WHORTON (Co-sponsors).

Read 1st time January 31, 2006 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

4801L.011

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### AN ACT

To repeal section 386.266, RSMo, and to enact in lieu thereof one new section relating to alternate rate schedules.

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

Section A. Section 386.266, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 386.266, to read as follows:

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

2. [Subject to the requirements of this section, any electrical, gas, or water corporation may make an application to the commission to approve rate schedules authorizing periodic rate adjustments outside of general rate proceedings to reflect increases and decreases in its prudently incurred costs, whether capital or expense, to comply with any federal, state, or local environmental law, regulation, or rule. Any rate adjustment made under such rate schedules shall not exceed an annual amount equal to two and one-half percent of the electrical, gas, or water corporation's Missouri gross jurisdictional revenues, excluding gross receipts tax, sales tax and other similar pass-through taxes not included in tariffed rates, for regulated services as

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.

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

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

29 4.] The commission shall have the power to approve, modify, or reject **the** adjustment  
30 [mechanisms] **mechanism** submitted under [subsections] **subsection 1** [to 3] of this section only  
31 after providing the opportunity for a full hearing in a general rate proceeding, including a general  
32 rate proceeding initiated by complaint. The commission may approve such a rate [schedules]  
33 **schedule** after considering all relevant factors which may affect the costs or overall rates and  
34 charges of the corporation, provided that it finds that the adjustment mechanism set forth in the  
35 schedules:

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

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

41 (3) In the case of an adjustment mechanism submitted under [subsections] **subsection**  
42 1 [and 2] of this section, includes provisions requiring that the utility file a general rate case with  
43 the effective date of new rates to be no later than four years after the effective date of the  
44 commission order implementing the adjustment mechanism. However, with respect to [each]  
45 **the** mechanism, the four-year period shall not include any periods in which the utility is  
46 prohibited from collecting any charges under the adjustment mechanism, or any period for which  
47 charges collected under the adjustment mechanism must be fully refunded. In the event a court  
48 determines that the adjustment mechanism is unlawful and all moneys collected thereunder are  
49 fully refunded, the utility shall be relieved of any obligation under that adjustment mechanism  
50 to file a rate case;

51 (4) In the case of an adjustment mechanism submitted under subsection 1 [or 2] of this  
52 section, includes provisions for prudence reviews of the costs subject to the adjustment

53 mechanism no less frequently than at eighteen-month intervals, and shall require refund of any  
54 imprudently incurred costs plus interest at the utility's short-term borrowing rate.

55 [5.] **3.** Once such an adjustment mechanism is approved by the commission under this  
56 section, it shall remain in effect until such time as the commission authorizes the modification,  
57 extension, or discontinuance of the mechanism in a general rate case or complaint proceeding.

58 [6.] **4.** Any amounts charged under [any] **an** adjustment mechanism approved by the  
59 commission under this section shall be separately disclosed on each customer bill.

60 [7.] **5.** The commission may take into account any change in business risk to the  
61 corporation resulting from implementation of the adjustment mechanism in setting the  
62 corporation's allowed return in any rate proceeding, in addition to any other changes in business  
63 risk experienced by the corporation.

64 [8.] **6.** In the event the commission lawfully approves an incentive- or performance-based  
65 plan, such plan shall be binding on the commission for the entire term of the plan. This  
66 subsection shall not be construed to authorize or prohibit any incentive- or performance-based  
67 plan.

68 [9.] **7.** Prior to August 28, 2005, the commission shall have the authority to promulgate  
69 rules under the provisions of chapter 536, RSMo, as it deems necessary, to govern the structure,  
70 content and operation of such rate adjustments, and the procedure for the submission, frequency,  
71 examination, hearing and approval of such rate adjustments. Such rules shall be promulgated  
72 no later than one hundred fifty days after the initiation of such rulemaking proceeding. Any  
73 electrical, gas, or water corporation may apply for [any] **an** adjustment mechanism under this  
74 section whether or not the commission has promulgated any such rules.

75 [10.] **8.** Nothing contained in this section shall be construed as affecting any existing  
76 adjustment mechanism, rate schedule, tariff, incentive plan, or other ratemaking mechanism  
77 currently approved and in effect.

78 [11.] **9.** Each of the provisions of this section is severable. In the event any provision  
79 or subsection of this section is deemed unlawful, all remaining provisions shall remain in effect.

80 [12.] **10.** The provisions of this section shall take effect on January 1, 2006, and the  
81 commission shall have previously promulgated rules to implement the application process for  
82 any rate adjustment mechanism under this section prior to the commission issuing an order for  
83 any rate adjustment.

84 [13.] **11.** The public service commission shall appoint a task force, consisting of all  
85 interested parties, to study and make recommendations on the cost recovery and implementation  
86 of conservation and weatherization programs for electrical and gas corporations.

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