

SECOND REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 2408
95TH GENERAL ASSEMBLY

5470L.03C

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal section 393.150, RSMo, and to enact in lieu thereof three new sections relating to the public utilities, with an emergency clause.

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

Section A. Section 393.150, RSMo, is repealed and three new sections enacted in lieu thereof, to be known as sections 386.715, 386.900, and 393.150, to read as follows:

386.715. 1. The public counsel shall, prior to the beginning of each fiscal year, make available to the commission an estimate of the expenses to be incurred by the public counsel during such fiscal year, reasonably attributable to his or her responsibilities with respect to public utilities under sections 386.700 and 386.710 and shall also separately estimate the amount of such expenses directly attributable to such responsibilities with respect to each of the following groups of public utilities: electrical corporations, gas corporations, water corporations, heating companies, telephone corporations, telegraph corporations, sewer corporations, and any other public utility as defined in section 386.020, as well as the amount of such expenses not directly attributable to any such group.

2. The public counsel shall allocate to each such group of public utilities the estimated expenses directly attributable to his or her responsibilities under sections 386.700 to 386.710 with respect to such group and an amount equal to such proportion of the estimated expenses not directly attributable to any group as the gross intrastate operating revenues of such group during the three preceding calendar years bears to the total gross intrastate operating revenues of all public utilities subject to the jurisdiction of the commission during such calendar years. The amount so allocated to telephone corporations shall not exceed ten percent of the total estimated expenses directly attributable to the public counsel's responsibilities under sections 386.700 to 386.710. The

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.

19 commission shall then assess, on behalf of the public counsel, the amount so allocated to
20 each group of public utilities, subject to reduction as provided in this section, to the public
21 utilities in such group in proportion to its respective gross intrastate operating revenues
22 during the preceding calendar year. The total amount so assessed to all such public
23 utilities shall not exceed two hundredths of one percent of the total gross intrastate
24 operating revenues of all utilities subject to the jurisdiction of the commission. Nothing in
25 this section shall authorize the commission to determine how the public counsel allocates
26 the estimated expenses directly attributable to his or her responsibilities under sections
27 386.700 and 386.710 with respect to public utilities described in subsection 1 of this section
28 or how the assessment imposed under this section is spent by the public counsel.

29 **3. On behalf of the public counsel, the commission shall render a statement of such**
30 **assessment to each such public utility on or before July first and the amount so assessed**
31 **to each such public utility shall be paid by it to the director of revenue in full on or before**
32 **July fifteenth next following the rendition of such statement, except that any such public**
33 **utility may at its election pay such assessment in four equal installments not later than the**
34 **following dates next following the rendition of such statement, to wit: July fifteenth,**
35 **October fifteenth, January fifteenth and April fifteenth. The director of revenue shall**
36 **remit such payments to the state treasurer.**

37 **4. The state treasurer shall credit such payments to a special fund, which is hereby**
38 **created, to be known as "The Public Counsel Fund", which fund, or its successor fund**
39 **created under section 33.571, shall be devoted solely to the payment of expenditures**
40 **actually incurred by the public counsel and attributable to his or her responsibilities under**
41 **sections 386.700 to 386.710 with respect to such public utilities subject to the jurisdiction**
42 **of the commission. Any amount remaining in such special fund or its successor fund at the**
43 **end of any fiscal year shall not revert to the general revenue fund, but shall be applicable**
44 **by appropriation of the general assembly to the payment of such expenditures of the public**
45 **counsel in the succeeding fiscal year and shall be applied by the public counsel to the**
46 **reduction of the amount to be assessed to such public utilities in such succeeding fiscal**
47 **year, such reduction to be allocated to each group of public utilities in proportion to the**
48 **respective gross intrastate operating revenues of the respective groups during the**
49 **preceding calendar year.**

50 **5. In order to enable the public counsel to make the allocations and assessments**
51 **provided for in this section, each public utility subject to the jurisdiction of the commission**
52 **shall file with the commission on or before March thirty-first of each year, a statement**
53 **under oath showing its gross intrastate operating revenues for the preceding calendar year,**
54 **and if any public utility shall fail to file such statement within the time established in this**

55 subsection, the commission shall estimate such revenue. Such estimate shall be binding on
56 such public utility for the purpose of this section.

386.900. 1. Any retail electric supplier may make application to the commission to
2 approve rate schedules authorizing periodic rate adjustments outside of general rate
3 proceedings to recover all prudently incurred costs, including the supplier's currently
4 authorized return on equity, of investments and installations of smart grid and voltage
5 regulation technologies that reduce energy consumption or improve grid efficiency.

6 2. As used in this section, the term "retail electric supplier" means any electrical
7 corporation regulated by the commission.

393.150. 1. Whenever there shall be filed with the commission by any gas corporation,
2 electrical corporation, water corporation or sewer corporation any schedule stating a new rate or
3 charge, or any new form of contract or agreement, or any new rule, regulation or practice relating
4 to any rate, charge or service or to any general privilege or facility, the commission shall have,
5 and it is hereby given, authority, either upon complaint or upon its own initiative without
6 complaint, at once, and if it so orders without answer or other formal pleading by the interested
7 gas corporation, electrical corporation, water corporation or sewer corporation, but upon
8 reasonable notice, to enter upon a hearing concerning the propriety of such rate, charge, form of
9 contract or agreement, rule, regulation or practice, and pending such hearing and the decision
10 thereon, the commission upon filing with such schedule, and delivering to the gas corporation,
11 electrical corporation, water corporation or sewer corporation affected thereby, a statement in
12 writing of its reasons for such suspension, may suspend the operation of such schedule and defer
13 the use of such rate, charge, form of contract or agreement, rule, regulation or practice, but not
14 for a longer period than [one hundred and twenty] **ninety** days beyond the time when such rate,
15 charge, form of contract or agreement, rule, regulation or practice would otherwise go into effect;
16 and after full hearing, whether completed before or after the rate, charge, form of contract or
17 agreement, rule, regulation or practice goes into effect, the commission may make such order in
18 reference to such rate, charge, form of contract or agreement, rule, regulation or practice as
19 would be proper in a proceeding initiated after the rate, charge, form of contract or agreement,
20 rule, regulation or practice had become effective.

21 2. If any such hearing cannot be concluded within the period of suspension, as above
22 stated, the commission may, in its discretion, extend the time of suspension for a further period
23 not exceeding [six] **two** months. At any hearing involving a rate sought to be increased, the
24 burden of proof to show that the increased rate or proposed increased rate is just and reasonable
25 shall be upon the gas corporation, electrical corporation, water corporation or sewer corporation,
26 and the commission shall give to the hearing and decision of such questions preference over all

27 other questions pending before it [and decide the same as speedily as possible]. **As the party**
28 **with the burden of proof, the gas corporation, electrical corporation, water corporation or**
29 **sewer corporation shall submit written direct testimony in support of its filing at the time**
30 **the filing is made, those parties not bearing the burden of proof shall have the opportunity**
31 **to submit written rebuttal testimony relating to the filing no later than the date that leaves**
32 **at least sixty percent of the period of suspension remaining, and said corporation shall have**
33 **the opportunity to submit written surrebuttal testimony no later than the date that leaves**
34 **at least forty percent of the period of suspension remaining. The commission shall issue**
35 **its order deciding the matter no later than twenty days prior to the end of the suspension**
36 **period under subsection 1 of this section, or the further suspension period under this**
37 **subsection, whichever applies, and shall make its order reflecting its decision effective ten**
38 **days after its issuance. The new rates approved by the commission's order shall be**
39 **implemented by the corporation's filing of new schedules at least five business days prior**
40 **to the end of the suspension period under subsection 1 of this section, or the further**
41 **suspension period under this subsection, whichever applies. Unless such schedules are**
42 **rejected by the commission for failure to comply with the order, they shall take effect**
43 **automatically, without the need for further action by or order of the commission, and**
44 **notwithstanding the pendency of any application for rehearing, no later than the first day**
45 **following the end of the applicable suspension period. Where any filed schedules are**
46 **rejected by the commission for failure to comply with the commission's order, the gas**
47 **corporation, electrical corporation, water corporation or sewer corporation shall be**
48 **permitted to file replacement schedules that are in compliance with the commission's order**
49 **with a proposed effective date not less than five business days after the date of filing.**
50 **Unless these schedules are rejected by the commission for failure to comply with the order,**
51 **they shall take effect automatically on the proposed effective date, without the need for**
52 **further action by or order of the commission, notwithstanding the pendency of any**
53 **application for rehearing, and regardless of whether the proposed effective date is later**
54 **than the end of the suspension period.**

55 **3. Where under subsection 2 of this section the commission further suspends any**
56 **schedule that seeks to state a new rate, the commission shall determine the new rate**
57 **utilizing certain information updated as of sixty days prior to the end of the period of**
58 **suspension. Such updated information shall include all additions to plant-in-service and**
59 **all significant changes to expenses and revenues and such other changes as are necessary**
60 **to maintain a proper matching of revenues, expenses and rate base.**

Section B. Because immediate action is necessary to ensure adequate funding for public
2 representation in matters related to public utilities, to allow electrical suppliers to reduce energy
3 consumption, and to provide timely decisions related to public utility rates, section A of this act
4 is deemed necessary for the immediate preservation of the public health, welfare, peace, and
5 safety, and is hereby declared to be an emergency act within the meaning of the constitution, and
6 section A of this act shall be in full force and effect upon its passage and approval.

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