

SECOND REGULAR SESSION

HOUSE BILL NO. 2158

98TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE FRAKER.

5678H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

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

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Section A. Section 386.266, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 386.266 and 386.267, to read as follows: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 established in the utility's most recent general rate case or complaint proceeding. In addition to the rate adjustment, the electrical, gas, or water corporation shall be permitted to collect any

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 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.

20 Any costs not recovered as a result of the annual two and one-half percent limitation on rate
21 adjustments may be deferred, at a carrying cost each month equal to the utilities net of tax cost
22 of capital, for recovery in a subsequent year or in the corporation's next general rate case or
23 complaint 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 adjustment
30 mechanisms submitted under subsections 1 [to 3] **and 2** of this section only after providing the
31 opportunity for a full hearing in a general rate proceeding, including a general rate proceeding
32 initiated by complaint. The commission may approve such rate schedules after considering all
33 relevant factors which may affect the costs or overall rates and charges of the corporation,
34 provided that it finds that the adjustment mechanism set forth in the schedules:

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

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

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

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

53 [5.] 4. Once such an adjustment mechanism is approved by the commission under this
54 section, it shall remain in effect until such time as the commission authorizes the modification,
55 extension, or discontinuance of the mechanism in a general rate case or complaint proceeding.

56 [6.] 5. Any amounts charged under any adjustment mechanism approved by the
57 commission under this section shall be separately disclosed on each customer bill.

58 [7.] 6. The commission may take into account any change in business risk to the
59 corporation resulting from implementation of the adjustment mechanism in setting the
60 corporation's allowed return in any rate proceeding, in addition to any other changes in business
61 risk experienced by the corporation.

62 [8.] 7. In the event the commission lawfully approves an incentive- or
63 performance-based plan, such plan shall be binding on the commission for the entire term of the
64 plan. This subsection shall not be construed to authorize or prohibit any incentive- or
65 performance-based plan.

66 [9.] 8. Prior to August 28, 2005, the commission shall have the authority to promulgate
67 rules under the provisions of chapter 536 as it deems necessary, to govern the structure, content
68 and operation of such rate adjustments, and the procedure for the submission, frequency,
69 examination, hearing and approval of such rate adjustments. Such rules shall be promulgated
70 no later than one hundred fifty days after the initiation of such rulemaking proceeding. Any
71 electrical, gas, or water corporation may apply for any adjustment mechanism under this section
72 whether or not the commission has promulgated any such rules.

73 [10.] 9. Nothing contained in this section shall be construed as affecting any existing
74 adjustment mechanism, rate schedule, tariff, incentive plan, or other ratemaking mechanism
75 currently approved and in effect.

76 [11.] 10. Each of the provisions of this section is severable. In the event any provision
77 or subsection of this section is deemed unlawful, all remaining provisions shall remain in effect.

78 [12.] 11. The provisions of this section shall take effect on January 1, 2006, and the
79 commission shall have previously promulgated rules to implement the application process for
80 any rate adjustment mechanism under this section prior to the commission issuing an order for
81 any rate adjustment.

82 [13.] 12. The public service commission shall appoint a task force, consisting of all
83 interested parties, to study and make recommendations on the cost recovery and implementation
84 of conservation and weatherization programs for electrical and gas corporations.

**386.267. 1. Any gas, water, or sewer corporation may file, and the commission shall
2 approve, revenue stabilization rate schedules authorizing periodic rate adjustments outside
3 of general rate proceedings to ensure that the revenues actually collected by the gas, water,**

4 or sewer corporation do not vary from the revenues authorized in the corporation's last
5 general rate proceeding due to the following factors:

6 (1) For gas corporations, any revenue variation due to increases or decreases in
7 residential and commercial customer usage, exclusive of revenue variations accounted and
8 adjusted for in the gas corporation's purchased gas and annual cost adjustment rates;

9 (2) For sewer corporations, any revenue variation due to increases or decreases in
10 residential and commercial usage;

11 (3) For water corporations, any revenue variation due to increases or decreases in
12 residential, commercial, public authority, and sale for resale customer usage.

13 2. The gas, water, or sewer corporation may, at its sole election, include provisions
14 in the revenue stabilization rate schedules that account and adjust for revenue variations
15 either based upon variations in the average revenue per customer for each applicable
16 customer class or based on variations in overall revenue for each applicable customer class
17 by tariff district. Such basis shall be used consistently for each customer class and for the
18 entire period that the revenue stabilization rate schedules remain in effect. Revenue
19 variations between general rate proceedings associated with commission-approved
20 surcharges, including infrastructure system replacement surcharges approved under
21 sections 393.1000 to 393.1015 and environmental costs adjustments approved under
22 subsection 2 of section 386.266, the purchase or sale of utility assets, or the loss or addition
23 of utility customers shall be excluded from any adjustments made under the revenue
24 stabilization rate schedules.

25 3. The filings made on and after the first anniversary of the revenue stabilization
26 adjustment effective date shall include a reconciliation component that will compare the
27 effective revenue stabilization adjustment revenues to the actual revenue stabilization
28 adjustment revenues. The difference between the two shall be included in the revenue
29 stabilization adjustment calculation.

30 4. Within thirty days of the anniversary date of the revenue stabilization rate
31 schedules becoming effective and within thirty days of each annual anniversary date
32 thereafter, the gas, water, or sewer corporation shall file revised rate schedules to return
33 to or collect from each applicable customer class over the next annual period the difference
34 between the revenues collected during the preceding annual period and the revenues
35 authorized in the corporation's most recent general rate proceeding.

36 5. Any revenue stabilization rate schedule or revised rate schedule filed by a gas,
37 water, or sewer corporation shall become effective within thirty days. The commission
38 shall review such rate schedules for the exclusive purpose of:

39 **(1) Determining whether the revenue per customer or revenue per customer class**
40 **used in the rate schedules are consistent with the revenue per customer or revenue per**
41 **customer class and billing determinants used to set rates in the gas, water, or sewer**
42 **corporation's most recent general rate proceeding;**

43 **(2) Determining whether any subsequent revisions to such rate schedules accurately**
44 **reflect the difference between the revenues collected during the period under review and**
45 **the revenues authorized in the corporation's most recent general rate proceeding; and**

46 **(3) Ordering any adjustments to the gas, water, or sewer corporation's next**
47 **revenue stabilization rate schedule filing that may be necessary to achieve these outcomes.**
48 **Any such order making adjustments to the stabilization rate schedule shall be effective no**
49 **later than thirty days after the date of issuance of such order.**

50 **6. Between each annual filing of revised revenue stabilization rate schedules, the**
51 **gas, water, or sewer corporation may also make quarterly adjustments to reflect**
52 **differences between the revenues collected during the prior quarterly period and the**
53 **revenues authorized in the corporation's most recent general rate proceeding. Such**
54 **adjustments shall be made on an interim basis, shall become effective within ten business**
55 **days, and shall be subject to an overall annual reconciliation at the time the gas, water, or**
56 **sewer corporation makes its next annual revenue stabilization rate filing.**

57 **7. A gas, water, or sewer corporation may renew or terminate such revenue**
58 **stabilization rate schedules on the next anniversary date following each general rate**
59 **proceeding; provided that, if renewed, subsequent revenue stabilization filings shall be**
60 **updated to reflect the revenue per customer or revenue per customer class amounts used**
61 **to establish rates in such general rate proceeding.**

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