

SECOND REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 1999
99TH GENERAL ASSEMBLY

5727H.02C

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal section 386.266, RSMo, and to enact in lieu thereof one new section 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Section A. Section 386.266, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 386.266, to read as follows: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 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 applicable gross receipts tax, sales tax, or other similar pass-through taxes, and such taxes shall

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

39 5. The commission shall have the power to approve, modify, or reject adjustment
40 mechanisms submitted under subsections 1 to [3] 4 of this section only after providing the
41 opportunity for a full hearing in a general rate proceeding, including a general rate proceeding
42 initiated by complaint. The commission may approve such rate schedules after considering all
43 relevant factors which may affect the costs or overall rates and charges of the corporation,
44 provided that it finds that the adjustment mechanism set forth in the schedules:

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

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

50 (3) In the case of an adjustment mechanism submitted under subsections 1 and 2 of this
51 section, includes provisions requiring that the utility file a general rate case with the effective
52 date of new rates to be no later than four years after the effective date of the commission order
53 implementing the adjustment mechanism. However, with respect to each mechanism, the
54 four-year period shall not include any periods in which the utility is prohibited from collecting

55 any charges under the adjustment mechanism, or any period for which charges collected under
56 the adjustment mechanism must be fully refunded. In the event a court determines that the
57 adjustment mechanism is unlawful and all moneys collected thereunder are fully refunded, the
58 utility shall be relieved of any obligation under that adjustment mechanism to file a rate case;

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

63 [5-] 6. Once such an adjustment mechanism is approved by the commission under this
64 section, it shall remain in effect until such time as the commission authorizes the modification,
65 extension, or discontinuance of the mechanism in a general rate case or complaint proceeding.

66 [6-] 7. Any amounts charged under any adjustment mechanism approved by the
67 commission under this section shall be separately disclosed on each customer bill.

68 [7-] 8. The commission may take into account any change in business risk to the
69 corporation resulting from implementation of the adjustment mechanism in setting the
70 corporation's allowed return in any rate proceeding, in addition to any other changes in business
71 risk experienced by the corporation.

72 [8-] 9. In the event the commission lawfully approves an incentive- or
73 performance-based plan, such plan shall be binding on the commission for the entire term of the
74 plan. This subsection shall not be construed to authorize or prohibit any incentive- or
75 performance-based plan.

76 [9-] 10. Prior to August 28, 2005, **for subsections 1 to 3 of this section, and upon the**
77 **effective date of this section for subsection 4 of this section**, the commission shall have the
78 authority to promulgate rules under the provisions of chapter 536 as it deems necessary, to
79 govern the structure, content and operation of such rate adjustments, and the procedure for the
80 submission, frequency, examination, hearing and approval of such rate adjustments. ~~[Such rules~~
81 ~~shall be promulgated no later than one hundred fifty days after the initiation of such rulemaking~~
82 ~~proceeding.]~~ Any electrical, gas, ~~[or]~~ water, **or sewer** corporation may apply for any adjustment
83 mechanism under this section whether or not the commission has promulgated any such rules.

84 [10-] 11. Nothing contained in this section shall be construed as affecting any existing
85 adjustment mechanism, rate schedule, tariff, incentive plan, or other ratemaking mechanism
86 currently approved and in effect.

87 [11-] 12. Each of the provisions of this section is severable. In the event any provision
88 or subsection of this section is deemed unlawful, all remaining provisions shall remain in effect.

89 [12-] 13. The provisions of **subsections 1 to 3 of this section** shall take effect on January
90 1, 2006, and the commission shall have previously promulgated rules to implement the

91 application process for any rate adjustment mechanism under **subsections 1 to 3** of this section
92 prior to the commission issuing an order for any rate adjustment.

93 ~~[13:]~~ **14.** The public service commission shall appoint a task force, consisting of all
94 interested parties, to study and make recommendations on the cost recovery and implementation
95 of conservation and weatherization programs for electrical and gas corporations.

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