

SECOND REGULAR SESSION

SENATE BILL NO. 848

90TH GENERAL ASSEMBLY

INTRODUCED BY SENATORS STOLL AND MAXWELL.

Read 1st time January 18, 2000, and 1,000 copies ordered printed.

3883S.011

TERRY L. SPIELER, Secretary.

AN ACT

To amend chapter 393, RSMo, relating to gas, electric, water, heating and sewer companies, by adding thereto ten new sections relating to retail energy customer and worker protection, with an emergency clause.

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

Section A. Chapter 393, RSMo, is amended by adding thereto ten new sections, to be known as sections 393.320, 393.325, 393.330, 393.335, 393.340, 393.345, 393.350, 393.355, 393.360 and 393.365, to read as follows:

393.320. 1. Sections 393.320 to 393.365 may be referred to as the "Missouri Retail Energy Customer and Worker Protection Act".

2. As used in sections 393.320 to 393.365, the following terms mean:

- (1) "Board", the Missouri energy reliability board established in section 393.325;**
- (2) "Commission", the public service commission; and**
- (3) "Electric or gas company", any legal person, or any entity, whether investor- or consumer-owned, engaged in the business of producing, distributing, selling or contracting on behalf of other entities to sell, operating in or otherwise furnishing electric or gas services within this state, whether or not such company is located within this state.**

393.325. 1. There is hereby created the "Missouri Energy Reliability Board". The board shall standardize the reliability, safety and customer services practices of electric or gas companies.

2. The board shall be comprised of seven individuals appointed by the governor with the advice and consent of the senate. Three members shall be appointed to represent the interest of electric or gas companies, three members shall be appointed to represent consumer interests, and one member shall be appointed to represent the

interests of electric or gas company workers.

3. The board shall have rulemaking authority over electric or gas companies. No rule or portion of a rule adopted by the board shall take effect unless such rule has been adopted pursuant to the procedures of chapter 536, RSMo.

4. In addition to its rulemaking authority, and in addition to all other powers granted to the board by sections 393.320 to 393.365, the board shall, as soon as is practicable after its formation, institute the following procedures:

(1) Safeguards to prevent overloads on any electric or gas utility system subject to regulation by the board. Such safeguards shall be applied to all generation, transmission and distribution facilities of electric or gas companies regulated by the board; and

(2) Procedures designed to prevent electric or gas companies from shifting extreme cost-cutting measures from one area serviced by an electric or gas company for the purpose of subsidizing competitiveness in another area serviced by such company.

5. All performance, maintenance and certification procedures established by the board pursuant to sections 393.320 to 393.365 shall maintain or exceed all performance, maintenance and certification standards that existed prior to the adoption of sections 393.320 to 393.365, whether such standards were adopted pursuant to the laws or rules of this state or any agency of this state, or pursuant to the internal policies of any electric or gas company regulated by the board.

6. To the extent that the provisions of sections 393.320 to 393.365 conflict with the provisions of sections 393.110 to 393.302 or any other provision of law, the provisions of sections 393.320 to 393.365 shall control, and the powers granted to the board pursuant to sections 393.320 to 393.365 shall, to the extent of conflict, replace the powers granted to the commission pursuant to sections 393.110 to 393.302 or the powers granted to any other authority pursuant to any other provision of law.

393.330. The board shall prepare and submit to the legislature a biennial report describing the adequacy and reliability of the state's current and future electricity supply. Within the report, the board shall:

(1) Identify and describe large generating facilities that an electric company plans to construct within the next three years;

(2) Assess the adequacy and reliability of purchased generation capacity and energy to serve the needs of the public;

(3) Identify and describe high-voltage transmission lines on which an electric company plans to commence construction within three years;

(4) Identify and describe any plans for assuring there is an adequate ability to transfer electric power into the state and the transmission area in a reliable manner;

(5) Identify and describe the projected demand for electric energy and the basis for determining the projected demand;

(6) Identify and describe existing activities to discourage inefficient and excessive power use;

(7) Identify and describe existing and planned generating facilities that use renewable sources of energy;

(8) Consider the public interest in economic development, public health and safety, protection of the environment and utilization of diverse energy supplies;

(9) Assess the extent to which the regional bulk power market is contributing to the adequacy and reliability of the state's electrical supply; and

(10) Assess whether sufficient electric capacity and energy will be available to the public at a reasonable price.

393.335. 1. The board shall establish minimum maintenance standards for all electric or gas companies providing service within this state. Each electric or gas company providing service to residents of this state shall file an annual preventative maintenance plan with the board. Such plan shall detail the maintenance, replacement and inspection schedule of all lines, poles, substations, generation facilities and related equipment located within this state, and shall be subject to the approval of the board.

2. The plans shall set forth a schedule for preventative maintenance of generation facilities and related equipment as well as gas transmission and distribution mechanisms and related equipment within the state.

3. The plan shall include a schedule for the inspection of poles, overhead and underground electric lines, substations, generation facilities and related equipment as well as gas transmission and distribution mechanisms and related equipment within the state. The method of inspection, including but not limited to visual, oil test, infrared, mechanical and electrical inspections, shall be indicated and shall include the checklist or report forms that shall be issued by the board.

4. The plan shall require all electric or gas company employees, vendors and contractors within this state to have completed appropriate industry recognized training for overhead and underground electric lines, poles, substations, generation facilities and related equipment as well as gas transmission and distribution mechanisms and related equipment.

5. The plan shall specify the expected date for replacement of overhead and underground electric lines, poles, substations, generation facilities and related equipment as well as gas transmission and distribution mechanisms and related equipment.

6. The plan shall require each electric or gas company to employ a sufficient number of properly trained permanent employees to adequately construct, inspect and

maintain all overhead and underground lines, poles, substations, generation facilities and related equipment located within the state.

7. Each facility inspected shall be required to meet a minimum maintenance standard rating with the criteria for such rating to be listed in the approved plan.

8. The electric or gas company shall present for approval by the board, the manner, method and schedule for corrective action in the event a facility receives an unfavorable rating.

9. The plan shall specify where the records will be kept with regard to inspections, condition rating, corrective actions, replacement of facilities and preventative maintenance. Such records shall be kept for a period of five years.

393.340. 1. The board shall establish minimal performance standards for all electric or gas companies operating or offering service within this state. Each electric or gas company shall implement procedures to ensure that their employees, vendors and contractors will adhere to all federal and state safety rules and regulations. Employees of such contractors or vendors shall be bonded by the contractor or vendor when working on or around customer or public property or equipment against the possible threat to customers or the public negligent or criminal behavior. Each electric or gas company shall be responsible for all damage to customer property and equipment primarily caused by the failure of such utilities to deliver service to their customers in compliance with specifications set by the board.

2. The board shall establish occupational safety and health standards for all electric or gas companies providing service in this state.

3. Each electric or gas company shall report to the board all incidents where:

(1) Fatality or personal injury with inpatient hospitalization is involved and where the incident involves utility or supplier owned electric or gas facilities;

(2) Estimated property damage to the electric or gas company or to others, or both, is twenty thousand dollars or more.

4. Each electric or gas company shall furnish to the board a written report within thirty days of each incident described in subsection 3 of this section giving a detailed and thorough account of the incident.

393.345. 1. To ensure that employees operating and maintaining generation, transmission and distribution facilities have the prerequisite skills, knowledge and competency to provide reliable and safe electrical and gas service, the board shall set specific service standards for both reliability and maintenance, by:

(1) Establishing a minimum set of standards for worker safety. Such standards shall include both core skills and specialty skills; and

(2) Hearing and judging complaints and violations within this state.

2. The board shall prohibit employers from permitting employees to perform

critical functions within the industry without first demonstrating that they have been certified as possessing the necessary skills and knowledge.

3. Electric or gas company employees, vendors and contractors working on or around customers' equipment or property shall have completed the necessary certification standards as established by the board. This subsection shall apply to the installation and maintenance of all areas of electric transmission, distribution and generation systems. The knowledge, skills and competence levels demonstrated shall be consistent with those generally required by the board. Such standards shall apply to the installation and maintenance of all areas of generation, transmission and distribution of electricity or gas.

393.350. The board may determine an electric or gas company's obligation to provide service and the proper time, if any, to be allowed to discontinue or refuse to provide service. Each such provider will be bound by identical obligations.

393.355. 1. The board shall adopt minimum customer service standards for all electric or gas companies providing service to residents of this state. Such standards shall include the following:

(1) The electric or gas company shall maintain a minimum of one customer service center within its service territory and shall locate sufficient personnel strategically throughout its service territory as needed to meet the needs of its customers;

(2) Requests for the establishment or termination of service shall be completed within seventy-two hours of being received except for customer-caused delays or other delays outside the control of the electric or gas company;

(3) Trouble reports generated by customers shall be satisfactorily answered and resolved within two hours of being initiated, unless the problem cannot reasonably be resolved within two hours;

(4) Every effort shall be made to provide customers with accurate bills for service. Less than five percent of the bills shall be in error as a result of not properly calculating the bill or failing to properly read the meter;

(5) Adequate safeguards shall be implemented to ensure that improper shut-off of service does not occur; and

(6) Each electric or gas company shall establish a customer complaint hotline that shall be an easy to remember toll-free number. The hotline shall be sufficiently staffed to answer calls within twenty seconds during normal working hours. A log shall be kept on the nature of each complaint, the time and day the complaint was received and an explanation of how the complaint was resolved.

2. The minimum customer service standards adopted by the board shall also include the following information disclosures, which shall be available to retail electric

and gas customers, without charge, upon request:

(1) An explanation of any applicable credit and deposit requirements, including the means by which credit may be established, the conditions under which a deposit may be required, the amount of any deposit, interest paid on the deposit and the circumstances under which the deposit may be returned or forfeited;

(2) A complete, itemized listing of all rates and charges for which the customer is responsible, including charges, if any, to terminate service, the identity of the entity responsible for setting rates, and an explanation of how to receive notice of public hearings where changes in rates will be considered or approved;

(3) An explanation of metering or measurement policies and procedures, including the process of verifying the reliability of the meters or measurements and adjusting bills upon discovery of errors in the meters or measurement;

(4) An explanation of bill payment policies and procedures, including due dates, applicable late fees and interest rate charged, if any, on unpaid balances;

(5) An explanation of the payment arrangement options available to customers, including budget payment plans and the availability of home heating assistance from government and private sector organizations;

(6) An explanation of the method by which customers shall file notice of their intent to discontinue service, the circumstances under which service may be discontinued by the electric or gas company, the conditions that shall be met by the electric or gas company prior to discontinuing service and how to avoid disconnection;

(7) An explanation of the electric or gas company's policies governing the confidentiality of proprietary customer information, including the circumstances under which the information may be disclosed and ways in which customers can control access to the information;

(8) An explanation of the methods by which customers may make inquiries to, and file complaints with, the electric or gas company, and such company's procedures for responding to and resolving complaints and disputes, including a customer's right to complain about an investor-owned electric or gas company to the commission and appeal a decision by a consumer-owned utility to the governing body of the consumer-owned electric or gas company; and

(9) An annual report containing the following information for the previous calendar year:

(a) A general description of the electric or gas company's customers, including the number of residential, commercial and industrial customers served by the electric or gas company, and the amount of electricity and gas consumed by each customer class in which there are at least three customers, stated as a percentage of the total utility load;

(b) A summary of the average electricity and gas rates for each customer class in which there are at least three customers, stated in cents per kilowatt-hour/BTU, the date of the electric or gas company's last general rate increase or decrease, the identity of the entity responsible for setting rates and an explanation of how to receive notice of public hearings where changes in rates will be considered or approved;

(c) An explanation of the amount invested by the electric or gas company in conservation, nonrenewable resources and low-income energy assistance programs, and the source of funding for the investments; and

(d) An explanation of the amount of federal, state and local taxes collected and paid by the electric or gas company, including the amounts collected by such company but paid directly by retail electric and gas customers.

393.360. 1. Any electric or gas company undertaking a sale or lease of generation, transmission or distribution assets, sale of stock, transfer of stock, formation of a holding company, significant downsizing of operation or maintenance programs or merger with any other entity, shall prepare a worker transition plan. Such plan shall be filed with the board a minimum of one hundred eighty days prior to the date of finalization of any of the transactions described in this subsection. Prior to filing the plan, the electric or gas company shall inform its employees and their certified representatives of the provisions of the proposed plan and, pursuant to applicable law, shall confer with the affected employees or their certified representatives regarding the impact of the proposed plan and measures to minimize any resulting hardship on such employees.

2. While a worker transition plan is in effect, the electric or gas company shall file notice with the board of any closure or relocation of facilities and any action or reorganization that will result in layoffs. The notice shall include a description of the actions, the reasons for them and an assessment of their effects on such company's employees. The worker transition plan shall ensure the continuation of the terms and conditions of employment for a period of three years of any nonmanagerial employees potentially affected.

3. The worker transition plan shall offer voluntary severance, retraining, early retirement, outplacement and related benefits to affected workers. Required services and benefits shall include the following minimums, while also permitting the employees' representatives to negotiate additional benefits:

(1) Full tuition for two years at the University of Missouri, a state-owned college or university, a vocational or technical school within the state, or any other reasonable retraining services of value equal to two years of full in-state tuition at the University of Missouri, at the discretion of the employee;

(2) Continued health care insurance at the benefit and contribution levels

existing during employment for twenty-four months or until permanent replacement coverage is obtained through reemployment;

(3) Severance pay equal to three weeks of base pay for every year of full-time employment not to exceed fifty-two weeks;

(4) An early retirement option to any employee who is eligible to retire pursuant to the pension plan. Any employee exercising the early retirement option shall be entitled to receive full benefits equal to normal retirement benefits and may be supplemented with any available Social Security benefits until qualifying age; and

(5) A job bank to coordinate and assist placement of workers in the electric and gas industries throughout this state.

393.365. If an electric or gas company, or one or more of its subsidiary or parent companies, is party to a collective bargaining agreement recognized by federal or state law and undertakes a sale or lease of generation, transmission or distribution assets, sale of stock, transfer of stock, formation of a holding company, significant downsizing of operation or maintenance programs or merger with any other entity, such succeeding entity shall continue to recognize and bargain with the union representing the employees of the company at the time of the creation, acquisition or merger and shall refrain from making unilateral changes in the employees' terms and conditions of employment for a period of either three years or until expiration of the existing contract, whichever later occurs. In addition, any successor employer shall be bound to the terms of the collective bargaining agreement to the extent permitted by state and federal law unless the parties mutually agree to different terms and conditions within such three-year period. Nothing in this section shall prevent any company, corporation or other business from entering into any collective bargaining agreement with a labor union as allowed by state or federal law.

Section B. Because immediate action is necessary to preserve essential electric and gas services to the citizens of this state, the enactment of sections 393.320, 393.325, 393.330, 393.335, 393.340, 393.345, 393.350, 393.355, 393.360 and 393.365 is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and the enactment of sections 393.320, 393.325, 393.330, 393.335, 393.340, 393.345, 393.350, 393.355, 393.360 and 393.365 shall be in full force and effect upon their passage and approval.

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