

FIRST REGULAR SESSION

SENATE BILL NO. 387

91ST GENERAL ASSEMBLY

INTRODUCED BY SENATORS GOODE, SINGLETON, YECKEL, JOHNSON, STOLL, STEELMAN,
STAPLES, KENNEY, GROSS, WESTFALL, CHILDERS, KINDER, SCOTT AND MATHEWSON.

Read 1st time January 30, 2001, and 1,000 copies ordered printed.

TERRY L. SPIELER, Secretary.

1122S.041

AN ACT

To amend chapter 393, RSMo, by adding thereto one new section relating to allowing certain electrical corporations to recover certain costs, 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 one new section, to be known as section 393.158, to read as follows:

393.158. 1. Notwithstanding any other provision of law to the contrary, each electrical corporation shall be allowed an opportunity, pursuant to this section, to timely recover all of its reasonably and prudently incurred costs of natural gas associated with the production of electricity for its retail customers in plants which were in operation or for which construction was at least thirty percent complete, as determined by the commission, on or before January 1, 2001, and, until one year following the effective date of this section, one hundred percent of and, thereafter, fifty percent of costs associated with the acquisition of electricity for its retail customers. The costs subject to recovery shall include the natural gas and the transportation thereof used by the corporation to generate electricity in plants which were in operation or for which construction was at least thirty percent complete, as determined by the commission, on or before January 1, 2001, and the percentage established in this subsection of the costs of purchased electric energy impacted by the cost of natural gas. The cost recovery shall be pursuant to rate schedules designed to specifically recover such costs. Cost recovery for purchased energy shall only be permitted if the electrical corporation provides documentation which clearly identifies,

in a manner acceptable to the commission, the impact of the cost of natural gas on the purchase price of the electric energy. The commission shall have the authority to approve a recovery mechanism which shall be set forth in such rate schedules, and shall follow the same method the commission utilizes for purchased gas cost recovery by gas corporations, except as provided in this section.

2. Except as otherwise provided in subsection 6 of this section, the rate schedules to implement this recovery mechanism shall be initially established in a general rate proceeding for each individual electrical corporation.

3. After the initial establishment of recovery rate schedules pursuant to subsection 2 of this section, each electrical corporation with natural gas cost recovery rate schedules shall file replacement schedules with the commission every six months, regardless of whether it seeks a change, unless it has had such schedules replaced in a general rate case within the most recent six months. Each such filing shall include detailed accounting records sufficient for the commission to determine whether to establish, continue, reduce, or increase the level of such adjustment. Copies of all such filings and accounting records shall also be delivered on the same calendar day to the office of public counsel. The forty-five day period for a ruling under this section shall not begin until such documentation has been delivered by the electrical corporation to both the commission and the public counsel.

4. Filings pursuant to subsection 3 of this section shall not be subject to suspension by the commission. Any filing submitted pursuant to subsection 3 of this section shall be considered on an expedited basis and a ruling shall be made by the commission within forty-five days of the date of filing. The public counsel and any customer shall have standing to intervene in any proceeding pursuant to this section, but such intervention shall not extend the forty-five day period for making a ruling. The revised rate schedules shall become effective immediately upon such ruling, but such rate schedules shall be interim in nature and subject to refund as provided in this section. Applications for rehearing of any order approving such rate schedules for these purposes may be filed within ten days of such ruling, but applications for writs of review shall not be permitted from the denial of an application for rehearing.

5. If the commission finds, upon review of a filing required pursuant to subsection 3 of this section, evidence of the substantial possibility of overearnings on the part of the electrical corporation, the commission shall initiate a general rate proceeding for the electrical corporation.

6. The commission shall establish and implement a "true-up" mechanism similar to the purchased gas cost recovery by gas corporations, which shall accurately and appropriately remedy any over-collections from previous adjustment periods through

a refund procedure which includes interest at the electrical corporation's short-term debt rate. An electrical corporation shall not be entitled pursuant to this section to collect any additional under-collections from previous adjustment periods. The commission shall establish a case for the review of each adjustment period, and the commission's final order in such case shall be subject to judicial review pursuant to section 386.510, RSMo.

7. Provisions of subsection 2 of this section to the contrary notwithstanding, any electrical corporation filing for establishment of rate schedules pursuant to subsection 2 of this section no later than ninety days following the effective date of this section may request, at the time of such filing, emergency establishment of interim schedules pursuant to subsections 3 to 6 of this section. Such schedules shall be interim in nature and subject to true-up pursuant to subsection 6 of this section upon issue of the general rate order required pursuant to subsection 2 of this section. Emergency schedules shall be established pursuant to this subsection only in the case that, at the time of the filing, the electrical corporation is experiencing a twenty-five percent or greater increase in the price of natural gas as compared to the price used to establish its then currently effective rate schedules.

8. Nothing in this section shall be construed as limiting the authority of the commission to continue to further review natural gas costs, other fuel costs, purchased energy costs, purchased capacity costs, or any other related issues along with other nonrelated costs or issues during any general rate proceeding of any electrical corporation under its jurisdiction.

Section B. Because of the immediate need to allow electrical corporations to timely recover unanticipated and rapidly increasing costs incurred to purchase natural gas for production of electricity the enactment of section 393.158 of this act 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 section 393.158 of this act shall be in full force and effect upon its passage and approval.