

FIRST REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]
SENATE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR

SENATE BILL NO. 179

93RD GENERAL ASSEMBLY
2005

0983S.05T

AN ACT

To amend chapter 386, RSMo, by adding thereto one new section relating to cost recovery for utility companies.

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

Section A. Chapter 386, RSMo, is amended by adding thereto one new section, 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 not be counted against the two and one-half percent rate adjustment cap. Any costs not recovered as a result of the annual two and one-half percent limitation on rate adjustments may be deferred, at a carrying cost each month equal to the utilities net of tax cost of capital, for recovery in a subsequent year or in the corporation's next general rate case or complaint proceeding.

3. Subject to the requirements of this section, any gas corporation may make an application to the commission to approve rate schedules authorizing periodic rate adjustments outside of general rate proceedings to reflect the non-gas revenue effects of increases or decreases in residential and commercial customer usage due to variations in either weather, conservation, or both.

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

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

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

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

(4) In the case of an adjustment mechanism submitted under subsections 1 or 2 of this section, includes provisions for prudence reviews of the costs subject to the adjustment mechanism no less frequently than at eighteen month intervals,

and shall require refund of any imprudently incurred costs plus interest at the utility's short-term borrowing rate.

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

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

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

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

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

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

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

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

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

and gas corporations.

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