

FIRST REGULAR SESSION

SENATE BILL NO. 185

95TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR BRAY.

Read 1st time January 13, 2009, and ordered printed.

TERRY L. SPIELER, Secretary.

0940S.011

AN ACT

To repeal section 386.266, RSMo, and to enact in lieu thereof one new section relating to alternate rate schedules.

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Section A. Section 386.266, RSMo, is repealed and one new section
2 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
2 corporation may make an application to the commission to approve rate schedules
3 authorizing an interim energy charge, or periodic rate adjustments outside of
4 general rate proceedings to reflect increases and decreases in its prudently
5 incurred fuel and purchased-power costs, including transportation. The
6 commission may, in accordance with existing law, include in such rate schedules
7 features designed to provide the electrical corporation with incentives to improve
8 the efficiency and cost-effectiveness of its fuel and purchased-power procurement
9 activities.

10 2. [Subject to the requirements of this section, any electrical, gas, or water
11 corporation may make an application to the commission to approve rate schedules
12 authorizing periodic rate adjustments outside of general rate proceedings to
13 reflect increases and decreases in its prudently incurred costs, whether capital
14 or expense, to comply with any federal, state, or local environmental law,
15 regulation, or rule. Any rate adjustment made under such rate schedules shall
16 not exceed an annual amount equal to two and one-half percent of the electrical,
17 gas, or water corporation's Missouri gross jurisdictional revenues, excluding gross
18 receipts tax, sales tax and other similar pass-through taxes not included in
19 tariffed rates, for regulated services as established in the utility's most recent

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

20 general rate case or complaint proceeding. In addition to the rate adjustment, the
21 electrical, gas, or water corporation shall be permitted to collect any applicable
22 gross receipts tax, sales tax, or other similar pass-through taxes, and such taxes
23 shall not be counted against the two and one-half percent rate adjustment
24 cap. Any costs not recovered as a result of the annual two and one-half percent
25 limitation on rate adjustments may be deferred, at a carrying cost each month
26 equal to the utilities net of tax cost of capital, for recovery in a subsequent year
27 or in the corporation's next general rate case or complaint proceeding.

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

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

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

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

47 (3) [In the case of an adjustment mechanism submitted under subsections
48 1 and 2 of this section,] Includes provisions requiring that the utility file a
49 general rate case with the effective date of new rates to be no later than four
50 years after the effective date of the commission order implementing the
51 adjustment mechanism. However, with respect to [each] **the** mechanism, the
52 four-year period shall not include any periods in which the utility is prohibited
53 from collecting any charges under the adjustment mechanism, or any period for
54 which charges collected under the adjustment mechanism must be fully refunded.
55 In the event a court determines that the adjustment mechanism is unlawful and

56 all moneys collected thereunder are fully refunded, the utility shall be relieved
57 of any obligation under that adjustment mechanism to file a rate case;

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

63 [5.] 3. Once such an adjustment mechanism is approved by the
64 commission under this section, it shall remain in effect until such time as the
65 commission authorizes the modification, extension, or discontinuance of the
66 mechanism in a general rate case or complaint proceeding.

67 [6.] 4. Any amounts charged under [any] **an** adjustment mechanism
68 approved by the commission under this section shall be separately disclosed on
69 each customer bill.

70 [7.] 5. The commission may take into account any change in business risk
71 to the corporation resulting from implementation of the adjustment mechanism
72 in setting the corporation's allowed return in any rate proceeding, in addition to
73 any other changes in business risk experienced by the corporation.

74 [8.] 6. In the event the commission lawfully approves an incentive- or
75 performance-based plan, such plan shall be binding on the commission for the
76 entire term of the plan. This subsection shall not be construed to authorize or
77 prohibit any incentive- or performance-based plan.

78 [9.] 7. Prior to August 28, 2005, the commission shall have the authority
79 to promulgate rules under the provisions of chapter 536, RSMo, as it deems
80 necessary, to govern the structure, content and operation of such rate
81 adjustments, and the procedure for the submission, frequency, examination,
82 hearing and approval of such rate adjustments. Such rules shall be promulgated
83 no later than one hundred fifty days after the initiation of such rulemaking
84 proceeding. Any electrical[, gas, or water] corporation may apply for [any] **an**
85 adjustment mechanism under this section whether or not the commission has
86 promulgated any such rules.

87 [10.] 8. Nothing contained in this section shall be construed as affecting
88 any existing adjustment mechanism, rate schedule, tariff, incentive plan, or other
89 ratemaking mechanism currently approved and in effect.

90 [11.] 9. Each of the provisions of this section is severable. In the event
91 any provision or subsection of this section is deemed unlawful, all remaining

92 provisions shall remain in effect.

93 [12.] 10. The provisions of this section shall take effect on January 1,
94 2006, and the commission shall have previously promulgated rules to implement
95 the application process for any rate adjustment mechanism under this section
96 prior to the commission issuing an order for any rate adjustment.

97 [13.] 11. The public service commission shall appoint a task force,
98 consisting of all interested parties, to study and make recommendations on the
99 cost recovery and implementation of conservation and weatherization programs
100 for electrical and gas corporations.

Unofficial ✓

Bill

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