

FIRST REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 462
96TH GENERAL ASSEMBLY

Reported from the Committee on Commerce, Consumer Protection, Energy and the Environment, April 28, 2011, with recommendation that the Senate Committee Substitute do pass.

1403S.02C

TERRY L. SPIELER, Secretary.

AN ACT

To repeal sections 386.370, 386.850, and 393.135, RSMo, and to enact in lieu thereof two new sections relating to the regulation of public utilities.

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

Section A. Sections 386.370, 386.850, and 393.135, RSMo, are repealed
2 and two new sections enacted in lieu thereof, to be known as sections 386.370 and
3 393.135, to read as follows:

386.370. 1. **Prior to the beginning of each fiscal year**, the
2 commission shall[, prior to the beginning of each fiscal year beginning with the
3 fiscal year commencing on July 1, 1947,] make an estimate of the expenses to be
4 incurred by it during such fiscal year reasonably attributable to the regulation
5 of public utilities as provided in chapters 386, 392, and 393. **Prior to the**
6 **beginning of each fiscal year, the public counsel shall make an estimate**
7 **of the expenses to be incurred by him or her during such fiscal year**
8 **reasonably attributable to his or her responsibilities under sections**
9 **386.700 and 386.710. The commission and the public counsel** shall also
10 separately estimate the amount of such expenses directly attributable to [such
11 regulation of] each of the following groups of public utilities: Electrical
12 corporations, gas corporations, water corporations, heating companies [and
13 telephone corporations, telegraph corporations], **telecommunications**
14 **companies**, sewer corporations, and any other public utility as defined in section
15 386.020, as well as the amount of such expenses not directly attributable to any
16 such group.

17 2. The commission **and the public counsel** shall **each** allocate to each
18 such group of public utilities the **total** estimated expenses directly attributable

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

19 to [the regulation of] **their respective activities for each** such group and an
20 amount equal to such proportion of the estimated expenses not directly
21 attributable to any group as the gross intrastate operating revenues of such group
22 during the preceding calendar year bears to the total gross intrastate operating
23 revenues of all public utilities subject to the jurisdiction of the commission, as
24 aforesaid, during such calendar year. The commission shall then assess the
25 amount so allocated **by the commission and the public counsel** to each group
26 of public utilities, subject to reduction as herein provided, to the public utilities
27 in such group in proportion to their respective gross intrastate operating revenues
28 during the preceding calendar year, except that:

29 **(1) The total amount so assessed to all such public utilities that is**
30 **attributable to the commission's regulation of such utilities** shall not
31 exceed [one-fourth] **twenty-two hundredths** of one percent of the total gross
32 intrastate operating revenues of all utilities subject to the jurisdiction of the
33 commission; **and**

34 **(2) The total amount so assessed to all such public utilities that**
35 **is attributable to the public counsel's responsibilities under sections**
36 **386.700 and 386.710 shall not exceed two hundredths of one percent of**
37 **the total gross intrastate operating revenues of all utilities subject to**
38 **the jurisdiction of the commission, and the amount allocated to**
39 **telecommunications companies shall not exceed three percent of the**
40 **total estimated expenses directly attributable to the public counsel's**
41 **responsibilities. Nothing in this section shall authorize the commission**
42 **to determine how the public counsel allocates the estimated expenses**
43 **directly attributable to his or her responsibilities under sections**
44 **386.700 and 386.710 with respect to the public utilities described in**
45 **subsection 1 of this section or how the assessment imposed under this**
46 **section is spent by the public counsel.**

47 3. The commission shall render a statement of [such assessment] **the**
48 **assessments made under subsections 1 and 2 of this section** to each such
49 public utility on or before July first and the [amount] **amounts** so assessed to
50 each such public utility shall be paid by it to the director of revenue in full on or
51 before July fifteenth next following the rendition of such statement, except that
52 any such public utility may at its election pay such assessment in four equal
53 installments not later than the following dates next following the rendition of
54 said statement, to wit: July fifteenth, October fifteenth, January fifteenth and
55 April fifteenth. The director of revenue shall remit such payments to the state
56 treasurer.

57 4. The state treasurer shall **respectively** credit such payments to [a]
58 **two special [fund] funds**, which [is] **are** hereby created, to be known as "The
59 Public Service Commission Fund", which fund, or its successor fund created
60 pursuant to section 33.571, shall be devoted solely to the payment of expenditures
61 actually incurred by the commission and attributable to the regulation of such
62 public utilities subject to the jurisdiction of the commission, as aforesaid, **and**
63 **"The Public Counsel Fund", which fund, or any successor fund, shall be**
64 **devoted solely to the payment of expenditures actually incurred by the**
65 **public counsel and attributable to his or her responsibilities under**
66 **sections 386.700 and 386.710.** Any [amount] **amounts** remaining in such
67 special [fund] **funds** or [its] **their respective** successor [fund] **funds** at the end
68 of any fiscal year shall not revert to the general revenue fund, but shall be
69 applicable by appropriation of the general assembly to the payment of such
70 expenditures of the commission **or the public counsel** in the succeeding fiscal
71 year and shall be applied by the commission **or the public counsel** to the
72 reduction of the amount to be assessed to such public utilities in such succeeding
73 fiscal year, such reduction to be allocated to each group of public utilities in
74 proportion to the respective gross intrastate operating revenues of the respective
75 groups during the preceding calendar year.

76 5. In order to enable the commission **and the public counsel** to make the
77 allocations and assessments herein provided for, each public utility subject to the
78 jurisdiction of the commission as aforesaid shall file with the commission[, within
79 ten days after August 28, 1996, and thereafter] on or before March thirty-first of
80 each year, a statement under oath showing its gross intrastate operating
81 revenues for the preceding calendar year, and if any public utility shall fail to file
82 such statement within the time aforesaid the commission shall estimate such
83 revenue which estimate shall be binding on such public utility for the purpose of
84 this section.

393.135. 1. Any charge made or demanded by an electrical corporation
2 for service, or in connection therewith, which is based on the costs of construction
3 in progress upon any existing or new facility of the electrical corporation, or any
4 other cost associated with owning, operating, maintaining, or financing any
5 property before it is fully operational and used for service, is unjust and
6 unreasonable, and is prohibited.

7 2. **After October 1, 2011, an electrical corporation that seeks an**
8 **early site permit from the U.S. Nuclear Regulatory Commission, or a**
9 **successor organization, shall, upon commencement of the permitting**
10 **process, submit monitoring reports to the commission every six months**

11 **documenting work completed, total expenditures to date, work yet to**
12 **be completed, and anticipated expenditures yet to be incurred in order**
13 **to obtain the early site permit.**

14 **3. Notwithstanding the provisions of subsection 1 of this section,**
15 **an electrical corporation that has obtained an early site permit and**
16 **that has complied with subsection 2 of this section shall be entitled to**
17 **recover through rates charged to ratepayers all costs the electrical**
18 **corporation has prudently incurred, from the first dollar through the**
19 **cap outlined below, to obtain the permit in a principal amount not to**
20 **exceed forty-five million dollars for such site permit. Any electrical**
21 **corporation that, as part of a partnership or other group formed for**
22 **such purpose, contributes or otherwise bears any portion of the costs**
23 **incurred to obtain an early site permit shall also be entitled to recover**
24 **its share of such costs, provided the total principal amount does not**
25 **exceed the cost limitation included in this subsection. The principal**
26 **amount shall be recovered through each applicable electrical**
27 **corporation's rates charged to its ratepayers ratably over a period not**
28 **to exceed twenty years. In addition to recovery of the principal**
29 **amount, each applicable electrical corporation's rates shall also include**
30 **interest on the uncollected principal balance at a rate per annum equal**
31 **to the electrical corporation's commission-approved return on rate**
32 **base. Recovery shall commence with the effective date of tariffs**
33 **approved by the commission in each applicable electrical corporation's**
34 **first general rate proceeding following the date on which the early site**
35 **permit is obtained.**

36 **4. If an electrical corporation has recovered from ratepayers**
37 **expenditures for an early site permit pursuant to subsection 3 of this**
38 **section and then subsequently sells or transfers some or all of its**
39 **interest in the early site permit or subsequently receives**
40 **reimbursement for all or part of its costs from another source, the**
41 **commission shall prescribe how the electrical corporation shall credit**
42 **the sums paid by ratepayers that are equal to such sale, transfer, or**
43 **reimbursement amounts after the proceeds from the sale, transfer, or**
44 **reimbursement are received. The commission shall also prescribe how**
45 **any profits from such sale or transfer are shared between the electrical**
46 **corporation and ratepayers. Credits made to ratepayers shall include**
47 **interest on the uncredited balance at a rate per annum equal to the**
48 **electrical corporation's commission-approved short-term borrowing**

49 rate.

50 **5. If an electrical corporation that obtains an early site permit**
51 **does not obtain a combined license from the U.S. Nuclear Regulatory**
52 **Commission, or a successor organization, for the construction and**
53 **operation of a nuclear generating facility by the time the early site**
54 **permit expires, or does not commence construction of such a facility by**
55 **the time the early site permit expires, the commission shall open a**
56 **proceeding to examine whether the electrical corporation was**
57 **imprudent in not obtaining the combined license or not commencing**
58 **construction by the time the early site permit expired. If, after**
59 **hearing, the commission determines that the electrical corporation**
60 **acted imprudently, the commission shall require the electrical**
61 **corporation and any other applicable electrical corporation to credit**
62 **to ratepayers the amount of revenues deemed imprudent by the**
63 **commission that each electrical corporation collected pursuant to**
64 **subsection 3 of this section. If ratepayer credits are ordered, such**
65 **credits shall return to ratepayers, over a period of not less than five**
66 **nor more than ten years, the amount of revenues deemed imprudent by**
67 **the commission, including interest on the uncredited balance at a rate**
68 **per annum equal to the electrical corporation's commission-approved**
69 **short-term borrowing rate.**

2 [386.850. The Missouri energy task force created by
3 executive order 05-46 shall reconvene at least one time per year for
4 the purpose of reviewing progress made toward meeting the
5 recommendations set forth in the task force's final report as issued
6 under the executive order. The task force shall issue its findings
7 in a status report to the governor and general assembly no later
than December thirty-first of each year.]

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