

FIRST REGULAR SESSION

SENATE BILL NO. 297

97TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR LAGER.

Read 1st time February 11, 2013, and ordered printed.

TERRY L. SPIELER, Secretary.

1352S.02I

AN ACT

To repeal sections 393.320, 393.1000, and 393.1003, RSMo, and to enact in lieu thereof three new sections relating to ratemaking for water utilities.

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

Section A. Sections 393.320, 393.1000, and 393.1003, RSMo, are repealed
2 and three new sections enacted in lieu thereof, to be known as sections 393.320,
3 393.1000, and 393.1003, to read as follows:

393.320. 1. As used in this section, the following terms mean:

2 (1) "Large water public utility", a public utility that regularly provides
3 water service or sewer service to more than eight thousand customer connections
4 and that provides safe and adequate service but shall not include a sewer district
5 established under Section 30(a), Article VI of the Missouri Constitution, sewer
6 districts established under the provisions of chapter 204, 249, or 250, public
7 water supply districts established under the provisions of chapter 247, or
8 municipalities that own water or sewer systems;

9 (2) "Small water utility", a public utility that regularly provides water
10 service or sewer service to eight thousand or fewer customer connections; a water
11 district established under the provisions of chapter 247 that regularly provides
12 water or sewer service to eight thousand or fewer customer connections; a sewer
13 district established under the provisions of chapter 204, 249, or 250 that regularly
14 provides sewer service to eight thousand or fewer customer connections; or a
15 water system or sewer system owned by a municipality that regularly provides
16 water service or sewer service to eight thousand or fewer customer connections;
17 and all other entities that regularly provide water service or sewer service to
18 eight thousand or fewer customer connections.

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

19 2. The procedures contained in this section may be chosen by a large
20 water public utility, and if so chosen shall be used by the public service
21 commission to establish the ratemaking rate base of a small water utility during
22 an acquisition.

23 3. (1) An appraisal shall be performed by three appraisers. One
24 appraiser shall be appointed by the small water utility, one appraiser shall be
25 appointed by the large water public utility, and the third appraiser shall be
26 appointed by the two appraisers so appointed. Each of the appraisers shall be a
27 disinterested person who is a certified general appraiser under chapter 339.

28 (2) The appraisers shall:

29 (a) Jointly prepare an appraisal of the fair market value of the water
30 system and/or sewer system. The determination of fair market value shall be in
31 accordance with Missouri law and with the Uniform Standards of Professional
32 Appraisal Practice; and

33 (b) Return their appraisal, in writing, to the small water utility and large
34 water public utility in a reasonable and timely manner.

35 (3) If all three appraisers cannot agree as to the appraised value, the
36 appraisal, when signed by two of the appraisers, constitutes a good and valid
37 appraisal.

38 4. Nothing in this section shall prohibit a party from declining to proceed
39 with an acquisition or be deemed as establishing the final purchase price of an
40 acquisition.

41 5. (1) The lesser of the purchase price or the appraised value, together
42 with the reasonable and prudent transaction, closing, and transition costs
43 incurred by the large water public utility, shall constitute the ratemaking rate
44 base for the small water utility as acquired by the acquiring large water public
45 utility; provided, however, that if the small water utility is a public utility subject
46 to chapter 386 and the small water utility completed a rate case prior to the
47 acquisition, the public service commission may select as the ratemaking rate base
48 for the small water utility as acquired by the acquiring large water public utility
49 a ratemaking rate base in between:

50 (a) The lesser of the purchase price or the appraised value, together with
51 the reasonable and prudent transaction, closing, and transition costs incurred by
52 the large water public utility unless such transaction, closing, and transition
53 costs are elsewhere recoverable in rates; and

54 (b) The ratemaking rate base of the small water utility as ordered by the

55 public service commission in the small water utility's last previous rate case as
56 adjusted by improvements and depreciation reserve since the previous rate case
57 together with the transaction, closing, and transition costs incurred by the large
58 water public utility unless such transaction, closing, and transition costs are
59 elsewhere recoverable in rates. If the small water utility and large water public
60 utility proceed with the sale, any past-due fees due to the state from the small
61 water utility or its customers under chapter 640 or 644 shall be resolved prior to
62 the transfer of ownership or the liability for such past-due fees becomes the
63 responsibility of the large water public utility. Such fees shall not be included in
64 the large water public utility's rate base.

65 (2) The public service commission shall issue its decision establishing the
66 ratemaking rate base of the small water utility in its order approving the
67 acquisition.

68 **6. Upon the date of acquisition, the small water utility shall, for**
69 **ratemaking purposes, become part of an existing district, as defined by**
70 **the public service commission, with more than eight thousand**
71 **customers of the acquiring large water public utility that is either**
72 **contiguous to the small water utility, the closest geographically to the**
73 **small water utility, or best suited due to operational or other**
74 **factors. This consolidation shall be approved by the public service**
75 **commission in its order approving the acquisition. The public service**
76 **commission shall approve such district as may be just and reasonable**
77 **and in the public interest.**

78 **7.** Any new permit issued pursuant to chapters 640 and 644, when a small
79 water utility is acquired by a large water public utility, shall include a plan to
80 resolve all outstanding permit compliance issues. After the transfer of ownership,
81 the acquiring large public water utility shall continue providing service to all
82 customers that were served by the small water utility at the time of sale.

83 **[7.] 8.** This section is intended for the specific and unique purpose of
84 determining the ratemaking rate base of small water utilities and shall be
85 exclusively applied to large water public utilities in the acquisition of a small
86 water utility. This section is not intended to apply beyond its specific purpose
87 and shall not be construed in any manner to apply to electric corporations,
88 natural gas corporations, or any other utility regulated by the public service
89 commission.

393.1000. As used in sections 393.1000 to 393.1006, the following terms

2 mean:

3 (1) "Appropriate pretax revenues", the revenues necessary to produce net
4 operating income equal to:

5 (a) The water **or sewer** corporation's weighted cost of capital multiplied
6 by the net original cost of eligible infrastructure system replacements, including
7 recognition of accumulated deferred income taxes and accumulated depreciation
8 associated with eligible infrastructure system replacements which are included
9 in a currently effective ISRS; and

10 (b) Recover state, federal, and local income or excise taxes applicable to
11 such income; and

12 (c) Recover all other ISRS costs;

13 (2) **"Base revenues", revenues produced through a general rate
14 case proceeding;**

15 (3) "Commission", the Missouri public service commission;

16 [(3)] (4) "Eligible infrastructure system replacements"[,];

17 (a) Water **or sewer** utility plant projects that:

18 [(a)] a. Replace or extend the useful life of existing infrastructure;

19 [(b)] b. Are in service and used and useful;

20 [(c)] c. Do not increase revenues by directly connecting the infrastructure
21 replacement to new customers; and

22 [(d)] d. Were not included in the water **or sewer** corporation's rate base
23 in its most recent general rate case; **or**

24 (b) **Energy efficiency projects that:**

25 a. **Are in service and used and useful;**

26 b. **Do not increase revenues by directly connecting the
27 infrastructure replacements to new customers; and**

28 c. **Were not included in the water or sewer corporation's rate
29 base in its most recent general rate case;**

30 [(4)] (5) **"Energy efficiency", measures that reduce the amount of
31 energy required to achieve a given end result;**

32 (6) "ISRS", infrastructure system replacement surcharge;

33 [(5)] (7) "ISRS costs", depreciation expenses and property taxes that will
34 be due within twelve months of the ISRS filing. **Depreciation expense on
35 eligible infrastructure system capital investments shall not begin to be
36 recorded on a utility's books until it is included in ISRS revenues or
37 base revenues;**

38 [(6)] **(8)** "ISRS revenues", revenues produced through an ISRS, exclusive
39 of revenues from all other rates and charges;

40 **(9) "Sewer corporation", every corporation, company, association,**
41 **joint stock company or association, partnership, and person, their**
42 **lessees, trustees, or receivers appointed by any court whatsoever,**
43 **owning, operating, controlling, or managing any plant or property, for**
44 **the collection, carriage, treatment, or disposal of sewage anywhere**
45 **within the state for gain;**

46 [(7)] **(10)** "Water corporation", every corporation, company, association,
47 joint stock company or association, partnership, and person, their lessees,
48 trustees, or receivers appointed by any court whatsoever, owning, operating,
49 controlling, or managing any plant or property, dam or water supply, canal, or
50 power station, distributing or selling for distribution, or selling or supplying for
51 gain any water [to more than ten thousand customers];

52 [(8)] **(11)** "Water or sewer utility plant projects" may consist only of the
53 following:

54 (a) Mains, [and associated] valves [and], hydrants, **service lines, and**
55 **meters, collecting sewers (including force lines, gravity sewers,**
56 **interceptors, laterals, trunk sewers, manholes, lampholes, and**
57 **necessary appurtenances, including service wyes), lift stations, and**
58 **pressure pumps** installed as replacements for existing facilities that have worn
59 out or are in deteriorated condition **or replaced as part of a commission**
60 **order, or the replacement of any of the forms of plant utility named in**
61 **this paragraph with improved technology;**

62 (b) **Main and collecting sewer** cleaning and relining projects; [and]

63 (c) Facilities relocations required due to construction or improvement of
64 a highway, road, street, public way, or other public work by or on behalf of the
65 United States, this state, a political subdivision of this state, or another entity
66 having the power of eminent domain provided that the costs related to such
67 projects have not been reimbursed to the water **or sewer** corporation; **and**

68 **(d) Energy efficiency projects.**

393.1003. 1. Notwithstanding any provisions of chapter 386, RSMo, and
2 this chapter to the contrary, as of August 28, [2003] **2013**, a water **or sewer**
3 corporation [providing water service in a county with a charter form of
4 government and with more than one million inhabitants] may file a petition and
5 proposed rate schedules with the commission to establish or change ISRS rate

6 schedules that will allow for the adjustment of the water **or sewer** corporation's
7 rates and charges to provide for the recovery of costs for eligible infrastructure
8 system replacements [made in such county with a charter form of government
9 and with more than one million inhabitants;], provided that an ISRS, on an
10 annualized basis, must produce ISRS revenues of at least one million dollars **for**
11 **a water or sewer corporation, or ten thousand dollars for a small sewer**
12 **corporation or small water corporation as defined in section 393.146,**
13 but not in excess of ten percent of the water **or sewer** corporation's base revenue
14 level approved by the commission in the water **or sewer** corporation's most
15 recent general rate proceeding. An ISRS and any future changes thereto shall be
16 calculated and implemented in accordance with the provisions of sections
17 393.1000 to 393.1006. ISRS revenues shall be subject to refund based upon a
18 finding and order of the commission, to the extent provided in subsections 5 and
19 8 of section 393.1006.

20 2. The commission shall not approve an ISRS for a water **or sewer**
21 corporation [in a county with a charter form of government and with more than
22 one million inhabitants] that has not had a general rate proceeding decided or
23 dismissed by issuance of a commission order within the past three years, unless
24 the water **or sewer** corporation has filed for or is the subject of a new general
25 rate proceeding.

26 3. In no event shall a water **or sewer** corporation collect an ISRS for a
27 period exceeding three years unless the water **or sewer** corporation has filed for
28 or is the subject of a new general rate proceeding; provided that the ISRS may be
29 collected until the effective date of new rate schedules established as a result of
30 the new general rate proceeding, or until the subject general rate proceeding is
31 otherwise decided or dismissed by issuance of a commission order without new
32 rates being established.

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