

SENATE SUBSTITUTE
FOR
SENATE COMMITTEE SUBSTITUTE
FOR
HOUSE COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1804

AN ACT

To repeal sections 386.266 and 393.1012, RSMo, and to enact in lieu thereof four new sections relating to state energy policies.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI,
AS FOLLOWS:

1 Section A. Sections 386.266 and 393.1012, RSMo, are
2 repealed and four new sections enacted in lieu thereof, to be
3 known as sections 386.266, 386.267, 393.1012, and 620.3150, to
4 read as follows:

5 386.266. 1. Subject to the requirements of this section,
6 any electrical corporation may make an application to the
7 commission to approve rate schedules authorizing an interim
8 energy charge, or periodic rate adjustments outside of general
9 rate proceedings to reflect increases and decreases in its
10 prudently incurred fuel and purchased-power costs, including
11 transportation. The commission may, in accordance with existing
12 law, include in such rate schedules features designed to provide
13 the electrical corporation with incentives to improve the
14 efficiency and cost-effectiveness of its fuel and purchased-power

1 procurement activities.

2 2. Subject to the requirements of this section, any
3 electrical, gas, or water corporation may make an application to
4 the commission to approve rate schedules authorizing periodic
5 rate adjustments outside of general rate proceedings to reflect
6 increases and decreases in its prudently incurred costs, whether
7 capital or expense, to comply with any federal, state, or local
8 environmental law, regulation, or rule. Any rate adjustment made
9 under such rate schedules shall not exceed an annual amount equal
10 to two and one-half percent of the electrical, gas, or water
11 corporation's Missouri gross jurisdictional revenues, excluding
12 gross receipts tax, sales tax and other similar pass-through
13 taxes not included in tariffed rates, for regulated services as
14 established in the utility's most recent general rate case or
15 complaint proceeding. In addition to the rate adjustment, the
16 electrical, gas, or water corporation shall be permitted to
17 collect any applicable gross receipts tax, sales tax, or other
18 similar pass-through taxes, and such taxes shall not be counted
19 against the two and one-half percent rate adjustment cap. Any
20 costs not recovered as a result of the annual two and one-half
21 percent limitation on rate adjustments may be deferred, at a
22 carrying cost each month equal to the utilities net of tax cost
23 of capital, for recovery in a subsequent year or in the
24 corporation's next general rate case or complaint proceeding.

25 3. [Subject to the requirements of this section, any gas
26 corporation may make an application to the commission to approve
27 rate schedules authorizing periodic rate adjustments outside of
28 general rate proceedings to reflect the nongas revenue effects of

1 increases or decreases in residential and commercial customer
2 usage due to variations in either weather, conservation, or both.

3 4.] The commission shall have the power to approve, modify,
4 or reject adjustment mechanisms submitted under subsections 1 [to
5 3] and 2 of this section only after providing the opportunity for
6 a full hearing in a general rate proceeding, including a general
7 rate proceeding initiated by complaint. The commission may
8 approve such rate schedules after considering all relevant
9 factors which may affect the costs or overall rates and charges
10 of the corporation, provided that it finds that the adjustment
11 mechanism set forth in the schedules:

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

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

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

1 unlawful and all moneys collected thereunder are fully refunded,
2 the utility shall be relieved of any obligation under that
3 adjustment mechanism to file a rate case;

4 (4) In the case of an adjustment mechanism submitted under
5 subsection 1 or 2 of this section, includes provisions for
6 prudence reviews of the costs subject to the adjustment mechanism
7 no less frequently than at eighteen-month intervals, and shall
8 require refund of any imprudently incurred costs plus interest at
9 the utility's short-term borrowing rate.

10 [5.] 4. Once such an adjustment mechanism is approved by
11 the commission under this section, it shall remain in effect
12 until such time as the commission authorizes the modification,
13 extension, or discontinuance of the mechanism in a general rate
14 case or complaint proceeding.

15 [6.] 5. Any amounts charged under any adjustment mechanism
16 approved by the commission under this section shall be separately
17 disclosed on each customer bill.

18 [7.] 6. The commission may take into account any change in
19 business risk to the corporation resulting from implementation of
20 the adjustment mechanism in setting the corporation's allowed
21 return in any rate proceeding, in addition to any other changes
22 in business risk experienced by the corporation.

23 [8.] 7. In the event the commission lawfully approves an
24 incentive- or performance-based plan, such plan shall be binding
25 on the commission for the entire term of the plan. This
26 subsection shall not be construed to authorize or prohibit any
27 incentive- or performance-based plan.

28 [9.] 8. Prior to August 28, 2005, the commission shall have

1 the authority to promulgate rules under the provisions of chapter
2 536 as it deems necessary, to govern the structure, content and
3 operation of such rate adjustments, and the procedure for the
4 submission, frequency, examination, hearing and approval of such
5 rate adjustments. Such rules shall be promulgated no later than
6 one hundred fifty days after the initiation of such rulemaking
7 proceeding. Any electrical, gas, or water corporation may apply
8 for any adjustment mechanism under this section whether or not
9 the commission has promulgated any such rules.

10 [10.] 9. Nothing contained in this section shall be
11 construed as affecting any existing adjustment mechanism, rate
12 schedule, tariff, incentive plan, or other ratemaking mechanism
13 currently approved and in effect.

14 [11.] 10. Each of the provisions of this section is
15 severable. In the event any provision or subsection of this
16 section is deemed unlawful, all remaining provisions shall remain
17 in effect.

18 [12.] 11. The provisions of this section shall take effect
19 on January 1, 2006, and the commission shall have previously
20 promulgated rules to implement the application process for any
21 rate adjustment mechanism under this section prior to the
22 commission issuing an order for any rate adjustment.

23 [13.] 12. The public service commission shall appoint a
24 task force, consisting of all interested parties, to study and
25 make recommendations on the cost recovery and implementation of
26 conservation and weatherization programs for electrical and gas
27 corporations.

28 386.267. 1. Subject to the requirements of this section,

1 any gas corporation may file, and the commission shall approve,
2 revenue stabilization rate schedules authorizing periodic rate
3 adjustments outside of general rate proceedings to ensure that
4 the revenues actually collected by the gas corporation do not
5 vary from the revenues authorized in the corporation's last
6 general rate proceeding due to increases or decreases in
7 residential and commercial customer usage, exclusive of revenue
8 variations accounted and adjusted for in the gas corporation's
9 purchased gas and annual cost adjustment rates.

10 2. The gas corporation may, at its sole election, include
11 provisions in the revenue stabilization rate schedules that
12 account and adjust for revenue variations based either upon
13 variations in the average revenue per customer for each
14 applicable customer class or based on variations in overall
15 revenue for each applicable customer class by tariff district.
16 Such basis shall be used consistently for each customer class and
17 for the entire period that the revenue stabilization rate
18 schedules remain in effect. Revenue variations between general
19 rate proceedings associated with commission approved surcharges,
20 including infrastructure system replacement surcharges approved
21 under sections 393.1009 to 393.1015 and environmental costs
22 adjustments approved under subsection 2 of section 386.266, the
23 purchase or sale of utility assets, or the loss or addition of
24 utility customers shall be excluded from any adjustments made
25 under the revenue stabilization rate schedules.

26 3. The filings made on and after the first anniversary of
27 the revenue stabilization adjustment effective date shall include
28 a reconciliation component that will compare the effective

1 revenue stabilization adjustment revenues to the actual revenue
2 stabilization adjustment revenues. The difference between the
3 two shall be included in the revenue stabilization adjustment
4 calculation.

5 4. Within thirty days of the anniversary date of the
6 revenue stabilization rate schedules becoming effective and
7 within thirty days of each annual anniversary date thereafter,
8 the gas corporation shall file revised rate schedules to return
9 to or collect from each applicable customer class over the next
10 annual period the difference between the revenues billed during
11 the preceding annual period and the revenues authorized in the
12 corporation's most recent general rate proceeding. For
13 residential customers, any annual rate increase resulting from
14 the revised rate schedules, combined with any quarterly
15 increases, shall not be designed to exceed a per customer average
16 of five dollars per month, provided that any revenue deficiency
17 not recovered because of this limitation may be deferred, at a
18 carrying cost each month equal to the corporation's net of tax
19 cost of capital, for recovery in a subsequent year or in the
20 corporation's next general rate or complaint proceeding. In each
21 subsequent general rate proceeding, the per customer monthly
22 limitation provided for under this subsection shall be adjusted
23 up or down by a percentage amount equal to the net percentage
24 increase or decrease in the consumer price index for all urban
25 customers since the revenue stabilization rate schedules first
26 went into effect. The per customer monthly limitation shall also
27 be adjusted upward by an amount equal to any decrease in the
28 fixed monthly customer charge for residential customers that may

1 be approved by the commission in such general rate proceeding.

2 5. Any revenue stabilization rate schedule or revised rate
3 schedule filed by a gas corporation shall become effective within
4 thirty days. The commission shall review such rate schedules for
5 the exclusive purpose of:

6 (1) Determining whether the revenue per customer or revenue
7 per customer class used in the rate schedules are consistent with
8 the revenue per customer or revenue per customer class and
9 billing determinates used to set rates in the gas corporation's
10 most recent general rate proceeding;

11 (2) Determining whether any subsequent revisions to such
12 rate schedules accurately reflect the difference between the
13 revenues billed during the period under review and the revenues
14 authorized in the corporation's most recent general rate
15 proceeding;

16 (3) Ordering any adjustments to the gas corporation's next
17 revenue stabilization rate schedule filing that may be necessary
18 to achieve these outcomes. Any such order making adjustments to
19 the stabilization rate schedule shall be effective no later than
20 thirty days after the date of issuance of such order.

21 6. Between each annual filing of revised revenue
22 stabilization rate schedules, the gas corporation may also make
23 quarterly adjustments to reflect differences between the revenues
24 billed during the prior quarterly period and the revenues
25 authorized in the corporation's most recent general rate
26 proceeding, provided such quarterly adjustments shall be made in
27 a consistent manner each quarter for the entire period that the
28 revenue stabilization rate schedules remain in effect. Such

1 quarterly adjustments shall also be made on an interim basis,
2 shall become effective within ten business days, and shall be
3 subject to an overall annual reconciliation at the time the gas
4 corporation makes its next annual revenue stabilization rate
5 filing.

6 7. Whenever a gas corporation has a subsequent general rate
7 proceeding, its revenue stabilization rate schedules shall be
8 updated to reflect the revenue per customer or revenue per
9 customer class amounts used to establish rates in such general
10 rate proceeding.

11 8. A gas corporation may terminate such revenue
12 stabilization rate schedules effective on the next anniversary
13 date of when such schedules first became effective, provided that
14 the commission shall order any rate adjustments necessary to
15 return to or recover from customers the difference between the
16 revenues billed during the last annual period and the revenues
17 authorized in the corporation's most recently completed general
18 rate proceeding.

19 9. A gas corporation may file its initial revenue
20 stabilization rate schedules under subsection 1 of this section
21 at any time, provided that the commission shall not be required
22 to process and approve such initial schedules for more than three
23 corporations in any one month during the first six months
24 following the effective date of this section. Such initial rate
25 schedules shall be processed by the commission in the same order
26 in which they were filed.

27 10. The commission may take into account any change in
28 business risk to the corporation resulting from implementation of

1 the adjustment mechanism in setting the corporation's allowed
2 return on equity in any general rate proceeding, in addition to
3 any other changes in business risk experienced by the
4 corporation.

5 11. No later than December 31, 2026, the commission shall
6 prepare and file with the secretary of the senate and the chief
7 clerk of the house of representatives a report on what impact, if
8 any, the implementation of revenue stabilization rate schedules
9 have had on gas corporations and their customers. Participating
10 gas corporations shall cooperate in good faith to provide the
11 data necessary for the preparation of the report required by this
12 subsection.

13 12. This section shall expire on December 31, 2036. Upon
14 expiration, the commission shall order any rate adjustments
15 necessary to return to, or recover from, customers the difference
16 between the revenues billed during the last annual period or
17 portion thereof prior to termination and the revenues authorized
18 in the corporation's most recently completed general rate
19 proceeding.

20 393.1012. 1. Notwithstanding any provisions of chapter 386
21 and this chapter to the contrary, beginning August 28, 2003, a
22 gas corporation providing gas service may file a petition and
23 proposed rate schedules with the commission to establish or
24 change ISRS rate schedules that will allow for the adjustment of
25 the gas corporation's rates and charges to provide for the
26 recovery of costs for eligible infrastructure system
27 replacements. The commission may not approve an ISRS to the
28 extent it would produce total annualized ISRS revenues below the

1 lesser of one million dollars or one-half of one percent of the
2 gas corporation's base revenue level approved by the commission
3 in the gas corporation's most recent general rate proceeding.
4 The commission may not approve an ISRS to the extent it would
5 produce total annualized ISRS revenues exceeding ten percent of
6 the gas corporation's base revenue level approved by the
7 commission in the gas corporation's most recent general rate
8 proceeding in any consecutive three-year period during which an
9 ISRS is in effect, provided that ISRS charges applicable to
10 residential customers shall not be increased by more than one
11 dollar and fifty cents per month in any annual period as adjusted
12 for any net increase or decrease in the Handy Whitman Index for
13 gas pipeline construction costs occurring after August 28, 2016.
14 If such index becomes unavailable, then another index of a
15 similar nature and effect shall be used. An ISRS and any future
16 changes thereto shall be calculated and implemented in accordance
17 with the provisions of sections 393.1009 to 393.1015, including
18 the requirement facilities replaced under paragraph (a) of
19 subdivision (5) of section 393.1009 be in worn out or
20 deteriorated condition. ISRS revenues shall be subject to a
21 refund based upon a finding and order of the commission to the
22 extent provided in subsections 5 and 8 of section 393.1009.

23 2. The commission shall not approve an ISRS for any gas
24 corporation that has not had a general rate proceeding decided or
25 dismissed by issuance of a commission order within the past
26 **[three]** five years, unless the gas corporation has filed for or
27 is the subject of a new general rate proceeding.

28 3. In no event shall a gas corporation collect an ISRS for

1 a period exceeding [three] five years unless the gas corporation
2 has filed for or is the subject of a new general rate proceeding;
3 provided that the ISRS may be collected until the effective date
4 of new rate schedules established as a result of the new general
5 rate proceeding, or until the subject general rate proceeding is
6 otherwise decided or dismissed by issuance of a commission order
7 without new rates being established.

8 4. In order for a gas corporation to file a petition with
9 the commission to establish or change an ISRS, such corporation
10 shall, by January 1, 2017, develop and file with the commission a
11 pre-qualification process for contractors seeking to participate
12 in competitive bidding to install ISRS-eligible gas utility plant
13 projects. Under the pre-qualification process, the gas
14 corporation may specify certain eligibility requirements
15 typically accepted by the industry, including but not limited to,
16 experience, performance criteria, safety policies, and insurance
17 requirements to be met by any contractor seeking to participate
18 in competitive bidding to install ISRS-eligible gas utility plant
19 projects. Contractors that meet the pre-qualification criteria
20 set by the gas corporation shall be eligible to participate in
21 the competitive bidding process for installing ISRS-eligible gas
22 utility plant projects, and the contractor making the overall
23 lowest and best bid for installing the ISRS-eligible gas utility
24 plant project shall be awarded such contract. The gas
25 corporation shall file, by January 1, 2017, a verified statement
26 with the commission confirming that it has in place a pre-
27 qualification process for the competitive bidding of ISRS-
28 eligible gas utility plant projects, and that such process

1 conforms with the requirements of this section. The commission
2 shall have the authority to verify the statement to ensure
3 compliance with this section. After January 1, 2017, the gas
4 corporation shall submit with each petition filing to establish
5 or change an ISRS a verified statement confirming that it is
6 using a competitive bidding process for no less than ten percent
7 of the combined external installation expenditures made by the
8 gas corporation's operating units in Missouri for installing
9 ISRS-eligible gas utility plant projects, and that such process
10 conforms with the requirements set forth in this section. The
11 commission shall have the authority to verify the statement to
12 ensure compliance with this section. Nothing in this section
13 shall be construed as requiring any gas corporation to use a pre-
14 qualified contractor or competitive bidding process in the case
15 of an emergency project, or to terminate any existing contract
16 with a contractor prior to its expiration; provided however that
17 the use of any preexisting contract for the installation of ISRS-
18 eligible gas utility plant projects shall not qualify as
19 fulfilling the ten percent requirement set forth in this section
20 beyond December 31, 2017.

21 5. By December 31, 2018, and annually thereafter, the
22 commission shall submit a report to the general assembly on the
23 effects of this section, including gas corporation compliance,
24 potential legislative action regarding this section, the costs of
25 installing ISRS-eligible gas utility plant projects prior to the
26 implementation of this section compared to after the
27 implementation of this section, and any other information
28 regarding the processes established under this section that the

1 commission deems necessary.

2 6. Nothing in this section shall be construed as
3 diminishing in any way the current authority and rights of the
4 commission, on its own motion, the staff of the commission,
5 public counsel, the mayor or the president or chairman of the
6 board of aldermen or a majority of the council, commission, or
7 other legislative body of any city, town, village, or county
8 located in the service territory of the gas corporation, or not
9 less than twenty-five consumers or purchasers, or prospective
10 consumers or purchasers, of gas from the gas corporation to file
11 a complaint under section 386.390 alleging that the rates or
12 charges of the gas corporation are unreasonable or unlawful.

13 7. Sections 393.1009, 393.1012, and 393.1015 shall
14 automatically terminate on December 31, 2036.

15 620.3150. 1. The comprehensive state energy plan developed
16 by the division of energy shall be reviewed by the division by
17 January 1, 2018, and biennially thereafter, and updated if
18 necessary, in accordance with the provisions of this section.

19 2. The state's comprehensive state energy plan shall be
20 reviewed to ensure that it:

21 (1) Is consistent with Article I, Section 2 of the Missouri
22 Constitution;

23 (2) Encourages private investment that will provide
24 customers with better energy supply and more efficiency and
25 conservation options;

26 (3) Develops free market strategies to attract private
27 capital investment;

28 (4) Identifies and values transportation alternatives;

1 (5) Creates an uncumbersome regulatory environment that
2 allows the state's energy utilities to chart a vibrant changing
3 future by operating with greater efficiency and reliability at a
4 low cost to consumers;

5 (6) Supports public and private efforts to foster a supply
6 of energy to consumers that is abundant, reliable, and cost
7 efficient; and

8 (7) Monitors areas of potential growth or development,
9 including forecasts of five and ten years for energy demand and
10 supply, infrastructure demands, and identification of additional
11 costs, risks, benefits, uncertainties, and market potential of
12 energy supply resource alternatives.

13 3. The division of energy, either directly or through
14 contracting with a Missouri-based nonprofit whose staff and
15 organization have the capacity and capability to adequately meet
16 the aforementioned goals, shall use a diverse stakeholder system
17 through both online engagement and several in-person meetings
18 throughout the state to conduct the review.

19 4. A report shall be issued by the division of energy,
20 along with the review required under this section, that shall
21 suggest policy changes for the state that:

22 (1) Provide improved reliability of the energy systems
23 within the state;

24 (2) Insulate customers from volatility in market prices;

25 (3) Reduce the overall cost of energy in the state;

26 (4) Reasonably addresses public health and environmental
27 impacts;

28 (5) Identify and analyze emerging trends in supply, price,

1 demand, and technology, as well as energy policies and programs,
2 and their impact on achieving the state's comprehensive state
3 energy plan.

4