

SECOND REGULAR SESSION

# SENATE BILL NO. 848

98TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR EMERY.

Pre-filed January 5, 2016, and ordered printed.

ADRIANE D. CROUSE, Secretary.

5535S.03I

## AN ACT

To repeal section 386.266, RSMo, and to enact in lieu thereof two new sections relating to rate schedules authorized for certain utilities outside of general rate proceedings.

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

Section A. Section 386.266, RSMo, is repealed and two new sections  
2 enacted in lieu thereof, to be known as sections 386.266 and 386.267, to read as  
3 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

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

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  
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 cap.  
24 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  
34 adjustment mechanisms submitted under subsections 1 [to 3] **and 2** of this  
35 section only after providing the opportunity for a full hearing in a general rate  
36 proceeding, including a general rate proceeding initiated by complaint. The  
37 commission may approve such rate schedules after considering all relevant factors  
38 which may affect the costs or overall rates and charges of the corporation,  
39 provided that it finds that the adjustment mechanism set forth in the schedules:

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

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

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

54 a court determines that the adjustment mechanism is unlawful and all moneys  
55 collected thereunder are fully refunded, the utility shall be relieved of any  
56 obligation under that adjustment mechanism to file a rate case;

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

62 [5.] 4. Once such an adjustment mechanism is approved by the  
63 commission under this section, it shall remain in effect until such time as the  
64 commission authorizes the modification, extension, or discontinuance of the  
65 mechanism in a general rate case or complaint proceeding.

66 [6.] 5. Any amounts charged under any adjustment mechanism approved  
67 by the commission under this section shall be separately disclosed on each  
68 customer bill.

69 [7.] 6. The commission may take into account any change in business risk  
70 to the corporation resulting from implementation of the adjustment mechanism  
71 in setting the corporation's allowed return in any rate proceeding, in addition to  
72 any other changes in business risk experienced by the corporation.

73 [8.] 7. In the event the commission lawfully approves an incentive- or  
74 performance-based plan, such plan shall be binding on the commission for the  
75 entire term of the plan. This subsection shall not be construed to authorize or  
76 prohibit any incentive- or performance-based plan.

77 [9.] 8. Prior to August 28, 2005, the commission shall have the authority  
78 to promulgate rules under the provisions of chapter 536 as it deems necessary,  
79 to govern the structure, content and operation of such rate adjustments, and the  
80 procedure for the submission, frequency, examination, hearing and approval of  
81 such rate adjustments. Such rules shall be promulgated no later than one  
82 hundred fifty days after the initiation of such rulemaking proceeding. Any  
83 electrical, gas, or water corporation may apply for any adjustment mechanism  
84 under this section whether or not the commission has promulgated any such  
85 rules.

86 [10.] 9. Nothing contained in this section shall be construed as affecting  
87 any existing adjustment mechanism, rate schedule, tariff, incentive plan, or other  
88 ratemaking mechanism currently approved and in effect.

89 [11.] 10. Each of the provisions of this section is severable. In the event

90 any provision or subsection of this section is deemed unlawful, all remaining  
91 provisions shall remain in effect.

92 [12.] 11. The provisions of this section shall take effect on January 1,  
93 2006, and the commission shall have previously promulgated rules to implement  
94 the application process for any rate adjustment mechanism under this section  
95 prior to the commission issuing an order for any rate adjustment.

96 [13.] 12. The public service commission shall appoint a task force,  
97 consisting of all interested parties, to study and make recommendations on the  
98 cost recovery and implementation of conservation and weatherization programs  
99 for electrical and gas corporations.

**386.267. 1. Any gas, water, or sewer corporation may file, and the  
2 commission shall approve, revenue stabilization rate schedules  
3 authorizing periodic rate adjustments outside of general rate  
4 proceedings to ensure that the revenues actually collected by the gas,  
5 water, or sewer corporation do not vary from the revenues authorized  
6 in the corporation's last general rate proceeding due to the following  
7 factors:**

8 (1) For gas corporations, any revenue variation due to increases  
9 or decreases in residential and commercial customer usage, exclusive  
10 of revenue variations accounted and adjusted for in the gas  
11 corporation's purchased gas and annual cost adjustment rates;

12 (2) For sewer corporations, any revenue variation due to  
13 increases or decreases in residential and commercial usage;

14 (3) For water corporations, any revenue variation due to  
15 increases or decreases in residential, commercial, public authority, and  
16 sale for resale customer usage.

17 2. The gas, water, or sewer corporation may, at its sole election,  
18 include provisions in the revenue stabilization rate schedules that  
19 account and adjust for revenue variations based either upon variations  
20 in the average revenue per customer for each applicable customer class  
21 or based on variations in overall revenue for each applicable customer  
22 class by tariff district. Such basis shall be used consistently for each  
23 customer class and for the entire period that the revenue stabilization  
24 rate schedules remain in effect. Revenue variations between general  
25 rate proceedings associated with commission approved surcharges,  
26 including infrastructure system replacement surcharges approved  
27 under sections 393.1000 to 393.1015 and environmental costs

28 adjustments approved under subsection 2 of section 386.266, the  
29 purchase or sale of utility assets, or the loss or addition of utility  
30 customers shall be excluded from any adjustments made under the  
31 revenue stabilization rate schedules.

32 3. The filings made on and after the first anniversary of the  
33 revenue stabilization adjustment effective date shall include a  
34 reconciliation component that will compare the effective revenue  
35 stabilization adjustment revenues to the actual revenue stabilization  
36 adjustment revenues. The difference between the two shall be included  
37 in the revenue stabilization adjustment calculation.

38 4. Within thirty days of the anniversary date of the revenue  
39 stabilization rate schedules becoming effective and within thirty days  
40 of each annual anniversary date thereafter, the gas, water, or sewer  
41 corporation shall file revised rate schedules to return to or collect from  
42 each applicable customer class over the next annual period the  
43 difference between the revenues collected during the preceding annual  
44 period and the revenues authorized in the corporation's most recent  
45 general rate proceeding.

46 5. Any revenue stabilization rate schedule or revised rate  
47 schedule filed by a gas, water, or sewer corporation shall become  
48 effective within thirty days. The commission shall review such rate  
49 schedules for the exclusive purpose of:

50 (1) Determining whether the revenue per customer or revenue  
51 per customer class used in the rate schedules are consistent with the  
52 revenue per customer or revenue per customer class and billing  
53 determinates used to set rates in the gas, water, or sewer corporation's  
54 most recent general rate proceeding;

55 (2) Determining whether any subsequent revisions to such rate  
56 schedules accurately reflect the difference between the revenues  
57 collected during the period under review and the revenues authorized  
58 in the corporation's most recent general rate proceeding;

59 (3) Ordering any adjustments to the gas, water, or sewer  
60 corporation's next revenue stabilization rate schedule filing that may  
61 be necessary to achieve these outcomes. Any such order making  
62 adjustments to the stabilization rate schedule shall be effective no later  
63 than thirty days after the date of issuance of such order.

64 6. Between each annual filing of revised revenue stabilization

65 rate schedules, the gas, water, or sewer corporation may also make  
66 quarterly adjustments to reflect differences between the revenues  
67 collected during the prior quarterly period and the revenues  
68 authorized in the corporation's most recent general rate  
69 proceeding. Such adjustments shall be made on an interim basis, shall  
70 become effective within ten business days, and shall be subject to an  
71 overall annual reconciliation at the time the gas, water, or sewer  
72 corporation makes its next annual revenue stabilization rate filing.

73         7. A gas, water, or sewer corporation may renew or terminate  
74 such revenue stabilization rate schedules on the next anniversary date  
75 following each general rate proceeding, provided that, if renewed,  
76 subsequent revenue stabilization filings shall be updated to reflect the  
77 revenue per customer or revenue per customer class amounts used to  
78 establish rates in such general rate proceeding.

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