

SECOND REGULAR SESSION

# SENATE BILL NO. 642

99TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR EMERY.

Pre-filed December 1, 2017, and ordered printed.

ADRIANE D. CROUSE, Secretary.

4743S.02I

## AN ACT

To repeal section 386.266, RSMo, and to enact in lieu thereof one new section relating to ratemaking for public utilities.

*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Section A. Section 386.266, RSMo, is repealed and one new section  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, **electrical, water,**  
29 **or sewer** corporation may make an application to the commission to approve rate  
30 schedules authorizing periodic rate adjustments outside of general rate  
31 proceedings to [reflect the nongas revenue effects] **adjust rates to account for**  
32 **the impact on utility revenues** of increases or decreases in residential and  
33 commercial customer usage [due to variations in either weather, conservation, or  
34 both] **as compared to such usage for those classes as last used to set the**  
35 **utility's rates.**

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

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

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

51           (3) In the case of an adjustment mechanism submitted under subsections  
52 1 and 2 of this section, includes provisions requiring that the utility file a general  
53 rate case with the effective date of new rates to be no later than four years after  
54 the effective date of the commission order implementing the adjustment  
55 mechanism. However, with respect to each mechanism, the four-year period shall

56 not include any periods in which the utility is prohibited from collecting any  
57 charges under the adjustment mechanism, or any period for which charges  
58 collected under the adjustment mechanism must be fully refunded. In the event  
59 a court determines that the adjustment mechanism is unlawful and all moneys  
60 collected thereunder are fully refunded, the utility shall be relieved of any  
61 obligation under that adjustment mechanism to file a rate case;

62 (4) In the case of an adjustment mechanism submitted under subsection  
63 1 or 2 of this section, includes provisions for prudence reviews of the costs subject  
64 to the adjustment mechanism no less frequently than at eighteen-month  
65 intervals, and shall require refund of any imprudently incurred costs plus  
66 interest at the utility's short-term borrowing rate.

67 5. Once such an adjustment mechanism is approved by the commission  
68 under this section, it shall remain in effect until such time as the commission  
69 authorizes the modification, extension, or discontinuance of the mechanism in a  
70 general rate case or complaint proceeding.

71 6. Any amounts charged under any adjustment mechanism approved by  
72 the commission under this section shall be separately disclosed on each customer  
73 bill.

74 7. The commission may take into account any change in business risk to  
75 the corporation resulting from implementation of the adjustment mechanism in  
76 setting the corporation's allowed return in any rate proceeding, in addition to any  
77 other changes in business risk experienced by the corporation.

78 8. In the event the commission lawfully approves an incentive- or  
79 performance-based plan, such plan shall be binding on the commission for the  
80 entire term of the plan. This subsection shall not be construed to authorize or  
81 prohibit any incentive- or performance-based plan.

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

91 10. Nothing contained in this section shall be construed as affecting any

92 existing adjustment mechanism, rate schedule, tariff, incentive plan, or other  
93 ratemaking mechanism currently approved and in effect.

94 11. Each of the provisions of this section is severable. In the event any  
95 provision or subsection of this section is deemed unlawful, all remaining  
96 provisions shall remain in effect.

97 12. The [provisions of this section shall take effect on January 1, 2006,  
98 and the] commission shall have previously promulgated rules to implement the  
99 application process for any rate adjustment mechanism under this section prior  
100 to the commission issuing an order for any **such** rate adjustment.

101 13. The public service commission shall appoint a task force, consisting  
102 of all interested parties, to study and make recommendations on the cost recovery  
103 and implementation of conservation and weatherization programs for electrical  
104 and gas corporations.

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