

SECOND REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NO. 1800

99TH GENERAL ASSEMBLY

Reported from the Committee on Commerce, Consumer Protection, Energy and the Environment, May 15, 2018, with recommendation that the Senate Committee Substitute do pass.

ADRIANE D. CROUSE, Secretary.

4875S.05C

AN ACT

To repeal sections 386.135, 386.390, 386.510, and 386.515, RSMo, and to enact in lieu thereof five new sections relating to the public service commission.

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

Section A. Sections 386.135, 386.390, 386.510, and 386.515, RSMo, are
2 repealed and five new sections enacted in lieu thereof, to be known as sections
3 386.135, 386.390, 386.510, 386.515, and 386.822, to read as follows:

386.135. 1. The commission shall have an independent technical advisory
2 staff of up to six full-time employees. The advisory staff shall have expertise in
3 accounting, economics, finance, engineering/utility operations, law, or public
4 policy.

5 2. In addition, each commissioner shall also have the authority to retain
6 one personal advisor, who shall be deemed a member of the technical advisory
7 staff. The personal advisors will serve at the pleasure of the individual
8 commissioner whom they serve and shall possess expertise in one or more of the
9 following fields: accounting, economics, finance, engineering/utility operations,
10 law, or public policy.

11 3. The commission shall only hire technical advisory staff pursuant to
12 subsections 1 and 2 of this section if there is a corresponding elimination in
13 comparable staff positions for commission staff to offset the hiring of such
14 technical advisory staff on a cost-neutral basis. [Such technical advisory staff
15 shall be hired on or before July 1, 2005.]

16 4. It shall be the duty of the technical advisory staff to render advice and
17 assistance to the commissioners and the commission's administrative law judges
18 on technical matters within their respective areas of expertise that may arise

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

19 during the course of proceedings before the commission. **Communications**
20 **between commissioners and technical advisory staff members who are**
21 **not attorneys shall be protected from public disclosure if and to the**
22 **same extent such communications between a commissioner and a**
23 **technical advisory staff member who is an attorney would be protected**
24 **from public disclosure.**

25 5. The technical advisory staff shall also update the commission and the
26 commission's administrative law judges periodically on developments and trends
27 in public utility regulation, including updates comparing the use, nature, and
28 effect of various regulatory practices and procedures as employed by the
29 commission and public utility commissions in other jurisdictions.

30 6. Each member of the technical advisory staff shall be subject to any
31 applicable ex parte or conflict of interest requirements in the same manner and
32 to the same degree as any commissioner, provided that neither any person
33 regulated by, appearing before, or employed by the commission shall be permitted
34 to offer such member a different appointment or position during that member's
35 tenure on the technical advisory staff.

36 7. No employee of a company or corporation regulated by the public
37 service commission, no employee of the office of public counsel or the public
38 counsel, and no staff members of either the utility operations division or utility
39 services division who were an employee or staff member on, during the two years
40 immediately preceding, or anytime after August 28, 2003, may be a member of the
41 commission's technical advisory staff for two years following the termination of
42 their employment with the corporation, office of public counsel or commission
43 staff member.

44 8. The technical advisory staff shall never be a party to any case before
45 the commission.

386.390. 1. Complaint may be made by the commission of its own motion,
2 or by the public counsel or any corporation or person, chamber of commerce,
3 board of trade, or any civic, commercial, mercantile, traffic, agricultural or
4 manufacturing association or organization, or any body politic or municipal
5 corporation, by petition or complaint in writing, setting forth any act or thing
6 done or omitted to be done by any corporation, person or public utility[, including
7 any rule, regulation or charge heretofore established or fixed by or for any
8 corporation, person or public utility,] in violation, or claimed to be in violation,
9 of any provision of law **subject to the commission's authority, [or] of any**

10 rule **promulgated by the commission, [or] of any utility tariff**, order, or of
11 **any** decision of the commission; provided, that no complaint shall be entertained
12 by the commission, except upon its own motion, as to the reasonableness of any
13 rates or charges of any gas, electrical, water, sewer, or telephone corporation,
14 unless the same be signed by the public counsel or the mayor or the president or
15 chairman of the board of aldermen or a majority of the council, commission or
16 other legislative body of any city, town, village or county, within which the
17 alleged violation occurred, or not less than twenty-five consumers or purchasers,
18 or prospective consumers or purchasers, of such gas, electricity, water, sewer or
19 telephone service.

20 2. All matters upon which complaint may be founded may be joined in one
21 hearing, and no motion shall be entertained against a complaint for misjoinder
22 of causes of action or grievances or misjoinder or nonjoinder of parties; and in any
23 review by the courts of orders or decisions of the commission the same rule shall
24 apply with regard to the joinder of causes and parties as herein provided.

25 3. The commission shall not be required to dismiss any complaint because
26 of the absence of direct damage to the complainant. Upon the filing of a
27 complaint, the commission shall cause a copy thereof to be served upon the public
28 utility, corporation or person complained of.

29 4. Service in all hearings, investigations and proceedings pending before
30 the commission may be made upon any person upon whom summons may be
31 served in accordance with the provisions of the code of civil procedure of this
32 state, and may be made personally or by mailing in a sealed envelope with
33 postage prepaid.

34 5. The commission shall fix the time when and the place where a hearing
35 will be had upon the complaint and shall serve notice thereof, not less than ten
36 days before the time set for such hearing, unless the commission shall find that
37 the public necessity requires that such hearing be held at an earlier date.

386.510. With respect to commission orders or decisions issued on and
2 after July 1, 2011, within thirty days after the application for a rehearing is
3 denied, or, if the application is granted, then within thirty days after the
4 rendition of the decision on rehearing, the applicant may file a notice of appeal
5 with [the commission, which shall also be served on the parties to the commission
6 proceeding in accordance with section 386.515, and which the commission shall
7 forward to] the appellate court with the territorial jurisdiction over the county
8 where the hearing was held or in which the commission has its principal office

9 for the purpose of having the reasonableness or lawfulness of the original order
10 or decision or the order or decision on rehearing inquired into or
11 determined. **Such notice of appeal shall be served on the commission**
12 **and each party to the commission proceeding in accordance with**
13 **section 386.515.** Except with respect to a stay or suspension pursuant to
14 subsection 1 of section 386.520, no new or additional evidence may be introduced
15 in the appellate court but the cause shall be heard by the court without the
16 intervention of a jury on the evidence and exhibits introduced before the
17 commission and certified to by it. The notice of appeal shall include the
18 appellant's application for rehearing, a copy of the reconciliation required by
19 subsection 4 of section 386.420, a concise statement of the issues being appealed,
20 a full and complete list of the parties to the commission proceeding, and any other
21 information specified by the rules of the court. Unless otherwise ordered by the
22 court of appeals, the commission shall, within thirty days of the filing of the
23 notice of appeal, certify its record in the case to the court of appeals. The
24 commission and each party to the action or proceeding before the commission
25 shall have the right to intervene and participate fully in the review
26 proceedings. Upon the submission of the case to the court of appeals, the court
27 of appeals shall render its opinion either affirming or setting aside, in whole or
28 in part, the order or decision of the commission under review. In case the order
29 or decision is reversed by reason of the commission failing to receive testimony
30 properly proffered, the court shall remand the cause to the commission, with
31 instructions to receive the testimony so proffered and rejected, and enter a new
32 order or render a new decision based upon the evidence theretofore taken, and
33 such as it is directed to receive. The court may, in its discretion, remand any
34 cause which is reversed by it to the commission for further action. No court in
35 this state, except the supreme court or the court of appeals, shall have
36 jurisdiction or authority to review, reverse, correct or annul any order or decision
37 of the commission or to suspend or delay the executing or operation thereof, or to
38 enjoin, restrain or interfere with the commission in the performance of its official
39 duties. The appellate courts of this state shall always be deemed open for the
40 trial of suits brought to review the orders and decisions of the commission as
41 provided in the public service commission law and the same shall where
42 necessary be tried and determined as suits in equity.

386.515. With respect to commission orders or decisions issued on and
2 after July 1, 2011, an application for rehearing is required to be served on all

3 parties and is a prerequisite to the filing of an appeal under section 386.510. The
4 application for rehearing puts the parties to the proceeding before the commission
5 on notice that an appeal can follow and any such review under the appeal may
6 proceed provided that a copy of the notice of appeal is served on said
7 parties. With respect to commission orders or decisions issued on and after July
8 1, 2011, the review procedure provided for in section 386.510 continues to be
9 exclusive except that a copy of the notice of appeal required by section 386.510
10 shall be served on **the commission and** each party to the proceeding before the
11 commission by the appellant according to the rules established by the court in
12 which the appeal is filed.

**386.822. 1. For purposes of this section, the following terms shall
2 mean:**

3 **(1) "Advanced meter", a meter or metering device system that
4 allows for two-way communication between the meter and the public
5 utility;**

6 **(2) "Public utility", the same as defined in section 386.020, but
7 shall not include an electrical corporation as described in subsection
8 2 of section 393.110;**

9 **(3) "Non-standard meter", a meter that does not allow for
10 communication between the meter and the public utility.**

11 **2. A public utility shall not install an advanced meter unless,
12 prior to such installation, the public utility attempts to notify the
13 affected customer of the intended installation. The commission shall
14 approve a notification procedure for public utilities that shall be
15 followed prior to the installation of an advanced meter. Prior to the
16 implementation of a commission approved notification procedure, each
17 public utility shall take reasonable steps to attempt to notify customers
18 prior to the installation of advanced meters on their premises. This
19 subsection shall not apply to advanced meter installations occurring
20 prior to August 28, 2018.**

21 **3. Customers may elect not to have an advanced meter installed,
22 or to have an advanced meter removed from their premises and
23 replaced with a non-standard meter. A public utility may initially
24 charge no more than seventy-five dollars to replace an advanced meter
25 with a non-standard meter. A public utility may initially charge no
26 more than twenty-five dollars per month in incremental fees to
27 customers with non-standard meters. Any customer who has provided**

28 the public utility with documentation from the customer's physician
29 establishing that the customer, or a member of the customer's
30 household, has a medical condition that is adversely impacted by an
31 advanced meter shall not be required to pay the fee for removing and
32 replacing the advanced meter, or the monthly incremental fee for
33 reading and servicing a non-standard meter.

34 4. If a customer believes that a public utility has failed to comply
35 with any provision of this section, or any rules adopted by the
36 commission addressing advanced meters, the customer may file a
37 complaint with the commission under section 386.390.

38 5. By August 28, 2022, the commission shall provide a report to
39 the general assembly regarding the operation of this section. After
40 August 28, 2022, the commission may replace the fixed fees set forth in
41 subsection 3 of this section with reasonable, cost based fees for each
42 public utility.

✓

Bill

Copy