

SECOND REGULAR SESSION

SENATE BILL NO. 1550

103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR CRAWFORD.

6640S.02I

KRISTINA MARTIN, Secretary

AN ACT

To repeal sections 386.370 and 393.140, RSMo, and to enact in lieu thereof two new sections relating to certain declarations made to the public service commission, with penalty provisions.

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

Section A. Sections 386.370 and 393.140, RSMo, are
2 repealed and two new sections enacted in lieu thereof, to be
3 known as sections 386.370 and 393.140, to read as follows:

386.370. 1. The commission shall, prior to the
2 beginning of each fiscal year beginning with the fiscal year
3 commencing on July 1, 1947, make an estimate of the expenses
4 to be incurred by it during such fiscal year reasonably
5 attributable to the regulation of public utilities as
6 provided in chapters 386, 392 and 393 and shall also
7 separately estimate the amount of such expenses directly
8 attributable to such regulation of each of the following
9 groups of public utilities: electrical corporations, gas
10 corporations, water corporations, heating companies and
11 telephone corporations, telegraph corporations, sewer
12 corporations, and any other public utility as defined in
13 section 386.020, as well as the amount of such expenses not
14 directly attributable to any such group. For purposes of
15 this section, water corporations and sewer corporations will
16 be combined and considered one group of public utilities.

17 2. The commission shall allocate to each such group of
18 public utilities the estimated expenses directly
19 attributable to the regulation of such group and an amount
20 equal to such proportion of the estimated expenses not
21 directly attributable to any group as the gross intrastate
22 operating revenues of such group during the preceding
23 calendar year bears to the total gross intrastate operating
24 revenues of all public utilities subject to the jurisdiction
25 of the commission, as aforesaid, during such calendar year.
26 The commission shall then assess the amount so allocated to
27 each group of public utilities, subject to reduction as
28 herein provided, to the public utilities in such group in
29 proportion to their respective gross intrastate operating
30 revenues during the preceding calendar year, except that the
31 total amount so assessed to all such public utilities,
32 except telecommunications corporations, shall not exceed
33 four hundred fifty thousandths of one percent of the total
34 gross intrastate operating revenues of all public utilities,
35 except telecommunications corporations, subject to the
36 jurisdiction of the commission. The total amount to be
37 assessed to all telecommunications corporations, including
38 interconnected voice over internet protocol service
39 providers, shall not exceed two hundred fifty thousandths of
40 one percent of the total gross intrastate operating revenues
41 of all telecommunications corporations and interconnected
42 voice over internet protocol service providers subject to
43 the jurisdiction of the commission.

44 3. The commission shall render a statement of such
45 assessment to each such public utility on or before July
46 first and the amount so assessed to each such public utility
47 shall be paid by it to the director of revenue in full on or
48 before July fifteenth next following the rendition of such

49 statement, except that any such public utility may at its
50 election pay such assessment in four equal installments not
51 later than the following dates next following the rendition
52 of said statement, to wit: July fifteenth, October
53 fifteenth, January fifteenth and April fifteenth. The
54 director of revenue shall remit such payments to the state
55 treasurer.

56 4. The state treasurer shall credit such payments to a
57 special fund, which is hereby created, to be known as "The
58 Public Service Commission Fund", which fund, or its
59 successor fund created pursuant to section 33.571, shall be
60 devoted solely to the payment of expenditures actually
61 incurred by the commission and attributable to the
62 regulation of such public utilities subject to the
63 jurisdiction of the commission, as aforesaid. Any amount
64 remaining in such special fund or its successor fund at the
65 end of any fiscal year shall not revert to the general
66 revenue fund, but shall be applicable by appropriation of
67 the general assembly to the payment of such expenditures of
68 the commission in the succeeding fiscal year and shall be
69 applied by the commission to the reduction of the amount to
70 be assessed to such public utilities in such succeeding
71 fiscal year, such reduction to be allocated to each group of
72 public utilities in proportion to the respective gross
73 intrastate operating revenues of the respective groups
74 during the preceding calendar year.

75 5. In order to enable the commission to make the
76 allocations and assessments herein provided for, each public
77 utility subject to the jurisdiction of the commission as
78 aforesaid shall file with the commission, within ten days
79 after August 28, 1996, and thereafter on or before March
80 thirty-first of each year, a statement under oath, **or**

81 **otherwise satisfied by a declaration that the statement is**
82 **made under penalty of perjury pursuant to section 509.030,**
83 showing its gross intrastate operating revenues for the
84 preceding calendar year, and if any public utility shall
85 fail to file such statement within the time aforesaid the
86 commission shall estimate such revenue which estimate shall
87 be binding on such public utility for the purpose of this
88 section.

393.140. The commission shall:

2 (1) Have general supervision of all gas corporations,
3 electrical corporations, water corporations and sewer
4 corporations having authority under any special or general
5 law or under any charter or franchise to lay down, erect or
6 maintain wires, pipes, conduits, ducts or other fixtures in,
7 over or under the streets, highways and public places of any
8 municipality, for the purpose of furnishing or distributing
9 water or gas or of furnishing or transmitting electricity
10 for light, heat or power, or maintaining underground
11 conduits or ducts for electrical conductors, or for the
12 purpose of collecting, carrying, treating, or disposing of
13 sewage, and all gas plants, electric plants, water systems
14 and sewer systems owned, leased or operated by any gas
15 corporation, electrical corporation, water corporation, or
16 sewer corporation.

17 (2) Investigate and ascertain, from time to time, the
18 quality of gas or water supplied and sewer service furnished
19 by persons and corporations, examine or investigate the
20 methods employed by such persons and corporations in
21 manufacturing, distributing and supplying gas or electricity
22 for light, heat or power and in transmitting the same, and
23 in supplying and distributing water for any purpose
24 whatsoever, and in furnishing a sewer system, and have power

25 to order such reasonable improvements as will best promote
26 the public interest, preserve the public health and protect
27 those using such gas, electricity, water, or sewer system,
28 and those employed in the manufacture and distribution
29 thereof, and have power to order reasonable improvements and
30 extensions of the works, wires, poles, pipes, lines,
31 conduits, ducts and other reasonable devices, apparatus and
32 property of gas corporations, electrical corporations, water
33 corporations, and sewer corporations.

34 (3) Have power, by order, to fix from time to time
35 standards for the measurement of the purity or illuminating
36 power of gas to be manufactured, distributed or sold by
37 persons or corporations for lighting, heating or power
38 purposes, to prescribe from time to time the efficiency of
39 the electric supply system, of the current supplied and of
40 the lamps furnished by the persons or corporations
41 generating and selling electric current, and to fix from
42 time to time standards for the measurement of the purity or
43 pressure of water to be distributed or sold by persons or
44 corporations for any purpose whatsoever, and to fix from
45 time to time the standards for designing, constructing,
46 operating and maintaining sewer systems of sewer
47 corporations, including sewers, sewage pumping stations,
48 sewage treatment works, primary treatment facilities, sludge
49 digestion and disposal facilities, secondary treatment
50 facilities, disinfection facilities, and any and all
51 facilities related thereto; provided, however, that such
52 standards shall be supplemental to and in no way set
53 standards lesser than the minimum standards adopted by the
54 state water pollution board, and by order to require gas so
55 manufactured, distributed or sold to equal the standards so
56 fixed by it, and to prescribe from time to time the

reasonable minimum and maximum pressure at which gas shall be delivered by said persons or corporations. For the purpose of determining whether the gas manufactured, distributed or sold by such persons or corporations for lighting, heating or power purposes conforms to the standards of illuminating power, purity and pressure, and for the purpose of determining whether the efficiency of the electric supply system, of the current supplied and of the lamps furnished, and for the purpose of determining whether the water furnished or sold conforms to the standard of purity and pressure, and for the purpose of determining whether the sewer system conforms to the standards for designing, constructing, operating and maintaining sewer systems, and conforms to the orders issued by the commission, the commission shall have power, of its own motion, to examine and investigate the plants and methods employed in manufacturing, delivering and supplying gas, electricity or water, and the collecting, carrying, treating and disposing of sewage, and shall have access, through its members or persons employed and authorized by it, to make such examinations and investigations to all parts of the manufacturing plants owned, used or operated for the manufacture, transmission or distribution of gas or electricity by any such person or corporation, and to all parts of the systems owned, used or operated for the supplying and distribution of water and the collecting, carrying, treating and disposing of sewage by any such person or corporation. Any employee or agent of the commission who divulges any fact or information which may come to his knowledge during the course of any such inspection or examination, except insofar as he may be

88 directed by the commission, or by a court or judge thereof,
89 or authorized by law, shall be guilty of a misdemeanor.

90 (4) Have power, in its discretion, to prescribe
91 uniform methods of keeping accounts, records and books, to
92 be observed by gas corporations, electrical corporations,
93 water corporations and sewer corporations engaged in the
94 manufacture, sale or distribution of gas and electricity for
95 light, heat or power, or in the distribution and sale of
96 water for any purpose whatsoever, or in the collection,
97 carriage, treatment and disposal of sewage for municipal,
98 domestic or other necessary beneficial purpose. It may
99 also, in its discretion, prescribe, by order, forms of
100 accounts, records and memoranda to be kept by such persons
101 and corporations. Notice of alterations by the commission
102 in the required method or form of keeping a system of
103 accounts shall be given to such persons or corporations by
104 the commission at least six months before the same shall
105 take effect. Any other and additional forms of accounts,
106 records and memoranda kept by such corporation shall be
107 subject to examination by the commission.

108 (5) Examine all persons and corporations under its
109 supervision and keep informed as to the methods, practices,
110 regulations and property employed by them in the transaction
111 of their business. Whenever the commission shall be of the
112 opinion, after a hearing had upon its own motion or upon
113 complaint, that the rates or charges or the acts or
114 regulations of any such persons or corporations are unjust,
115 unreasonable, unjustly discriminatory or unduly preferential
116 or in any wise in violation of any provision of law, the
117 commission shall determine and prescribe the just and
118 reasonable rates and charges thereafter to be in force for
119 the service to be furnished, notwithstanding that a higher

rate or charge has heretofore been authorized by statute, and the just and reasonable acts and regulations to be done and observed; and whenever the commission shall be of the opinion, after a hearing had upon its own motion or upon complaints, that the property, equipment or appliances of any such person or corporation are unsafe, insufficient or inadequate, the commission shall determine and prescribe the safe, efficient and adequate property, equipment and appliances thereafter to be used, maintained and operated for the security and accommodation of the public and in compliance with the provisions of law and of their franchises and charters.

(6) Require every person and corporation under its supervision and it shall be the duty of every person and corporation to file with the commission an annual report, verified by the oath, **or otherwise satisfied by a declaration that the statement is made under penalty of perjury pursuant to section 509.030,** of the president, treasurer, general manager or receiver, if any, thereof. The verification shall be made by said official holding office at the time of the filing of said report, and if not made upon the knowledge of the person verifying the same, shall set forth the sources of his information and the grounds of his belief as to any matters not stated to be verified upon his knowledge. The report shall show in detail the amount of its authorized capital stock and the amount thereof issued and outstanding; the amount of its authorized bonded indebtedness and the amount of its bonds and other forms of evidence of indebtedness issued and outstanding; its receipts and expenditures during the preceding year; the amount paid as dividends upon its stock and as interest upon its bonds; the names of its officers

and the aggregate amount paid as salaries to them and the amount paid as wages to its employees; the location of its plant or plants and system, with a full description of its property and franchises, stating in detail how each franchise stated to be owned was acquired; and such other facts pertaining to the operation and maintenance of the plant and system, and the affairs of such person or corporation as may be required by the commission. Such reports shall be in the form, cover the period and be filed at the time prescribed by the commission. The commission may, from time to time, make changes and additions in such forms. When any such report is defective or believed to be erroneous, the commission shall notify the person or corporation making such report to amend the same within a time prescribed by the commission. Any such person or corporation which shall neglect to make any such report or which shall fail to correct any such report within the time prescribed by the commission shall be liable to a penalty of one hundred dollars and an additional penalty of one hundred dollars for each day after the prescribed time for which it shall neglect to file or correct the same, to be sued for in the name of the state of Missouri. The amount recovered in any such action shall be paid to the public school fund of the state. The commission may extend the time prescribed for cause shown.

(7) Have power, either through its members or inspectors or employees duly authorized by it, to enter in or upon and to inspect the property, buildings, plants, factories, powerhouses, ducts, conduits and offices of any such corporations or persons.

(8) Have power to examine the accounts, books, contracts, records, documents and papers of any such

184 corporation or person, and have power, after hearing, to
185 prescribe by order the accounts in which particular outlays
186 and receipts shall be entered, charged or credited.

187 (9) Have power to compel, by subpoena duces tecum, the
188 production of any accounts, books, contracts, records,
189 documents, memoranda and papers. In lieu of requiring
190 production of originals by subpoena duces tecum the
191 commission or any commissioner may require sworn copies of
192 any such books, records, contracts, documents and papers, or
193 parts thereof, to be filed with it. The commission may
194 require of all such corporations or persons specific answers
195 to questions upon which the commission may need information,
196 and may also require such corporations or persons to file
197 periodic reports in the form, covering the period and filed
198 at the time prescribed by the commission. If such
199 corporation or person shall fail to make specific answer to
200 any question or shall fail to make a periodic report when
201 required by the commission as herein provided within the
202 time and in the form prescribed by the commission for the
203 making and filing of any such report or answer, such
204 corporation or person shall forfeit to the state the sum of
205 one hundred dollars for each and every day it shall continue
206 to be in default with respect to such report or answer.
207 Such forfeiture shall be recovered in an action brought by
208 the commission in the name of the state of Missouri. The
209 amount recovered in any such action shall be paid to the
210 public school fund of the state.

211 (10) Have power in all parts of the state, either as a
212 commission or through its members, to subpoena witnesses,
213 take testimony and administer oaths to witnesses in any
214 proceeding or examination instituted before it, or conducted

215 by it, in reference to any matter under sections 393.110 to
216 393.285.

217 (11) Have power to require every gas corporation,
218 electrical corporation, water corporation, and sewer
219 corporation to file with the commission and to print and
220 keep open to public inspection schedules showing all rates
221 and charges made, established or enforced or to be charged
222 or enforced, all forms of contract or agreement and all
223 rules and regulations relating to rates, charges or service
224 used or to be used, and all general privileges and
225 facilities granted or allowed by such gas corporation,
226 electrical corporation, water corporation, or sewer
227 corporation; but this subdivision shall not apply to state,
228 municipal or federal contracts. Unless the commission
229 otherwise orders, no change shall be made in any rate or
230 charge, or in any form of contract or agreement, or any rule
231 or regulation relating to any rate, charge or service, or in
232 any general privilege or facility, which shall have been
233 filed and published by a gas corporation, electrical
234 corporation, water corporation, or sewer corporation in
235 compliance with an order or decision of the commission,
236 except after thirty days' notice to the commission and
237 publication for thirty days as required by order of the
238 commission, which shall plainly state the changes proposed
239 to be made in the schedule then in force and the time when
240 the change will go into effect. The commission for good
241 cause shown may allow changes without requiring the thirty
242 days' notice under such conditions as it may prescribe. No
243 corporation shall charge, demand, collect or receive a
244 greater or less or different compensation for any service
245 rendered or to be rendered than the rates and charges
246 applicable to such services as specified in its schedule

247 filed and in effect at the time; nor shall any corporation
248 refund or remit in any manner or by any device any portion
249 of the rates or charges so specified, nor to extend to any
250 person or corporation any form of contract or agreement, or
251 any rule or regulation, or any privilege or facility, except
252 such as are regularly and uniformly extended to all persons
253 and corporations under like circumstances. The commission
254 shall have power to prescribe the form of every such
255 schedule, and from time to time prescribe by order such
256 changes in the form thereof as may be deemed wise. The
257 commission shall also have power to establish such rules and
258 regulations, to carry into effect the provisions of this
259 subdivision, as it may deem necessary, and to modify and
260 amend such rules or regulations from time to time.

261 (12) In case any electrical corporation, gas
262 corporation, water corporation or sewer corporation engaged
263 in carrying on any other business than owning, operating or
264 managing a gas plant, electric plant, water system or sewer
265 system which other business is not otherwise subject to the
266 jurisdiction of the commission, and is so conducted that its
267 operations are to be substantially kept separate and apart
268 from the owning, operating, managing or controlling of such
269 gas plant, electric plant, water system or sewer system,
270 said corporation in respect to such other business shall not
271 be subject to any of the provisions of this chapter and
272 shall not be required to procure the consent or
273 authorization of the commission to any act in such other
274 business or to make any report in respect thereof. But this
275 subdivision shall not restrict or limit the powers of the
276 commission in respect to the owning, operating, managing or
277 controlling by such corporation of such gas plant, electric
278 plant, water system or sewer system, and said powers shall

279 include also the right to inquire as to, and prescribe the
280 apportionment of, capitalization, earnings, debts and
281 expenses fairly and justly to be awarded to or borne by the
282 ownership, operation, management or control of such gas
283 plant, electric plant, water system or sewer system as
284 distinguished from such other business. In any such case if
285 the owning, operating, managing or controlling of such gas
286 plant, electric plant, water system or sewer system by any
287 such corporation is wholly subsidiary and incidental to the
288 other business carried on by it and is inconsiderable in
289 amount and not general in its character, the commission may
290 by general rules exempt such corporation from making full
291 reports and from the keeping of accounts as to such
292 subsidiary and incidental business.

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