

FIRST REGULAR SESSION

SENATE BILL NO. 125

92ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR GOODE.

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TERRY L. SPIELER, Secretary.

0304S,04I

AN ACT

To amend chapter 393, RSMo, by adding thereto three new sections relating to water corporations.

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

Section A. Chapter 393, RSMo, is amended by adding thereto three new sections, to be known as sections 393.1000, 393.1003, and 393.1006, to read as follows:

393.1000. As used in sections 393.1000 to 393.1006, the following terms mean:

(1) "Appropriate pretax revenues", the revenues necessary to:

(a) Produce net operating income equal to the water corporation's weighted cost of capital multiplied by the net original cost of eligible infrastructure system replacements; and

(b) Include state, federal and local income or excise taxes applicable to such income;

(2) "Commission", the Missouri public service commission;

(3) "Eligible infrastructure system replacements", new water utility plant projects that replace existing infrastructure and that are used and useful and that:

(a) Do not increase revenues by directly connecting the infrastructure replacement to new customers;

(b) Are in service;

(c) Were not included in the water corporation's rate base in its most recent general rate case; and

(d) Replace an existing infrastructure;

(4) "ISRC", infrastructure system replacement charge;

(5) "ISRC costs", depreciation expenses and appropriate pretax revenues associated with eligible infrastructure system replacements;

(6) "ISRC revenues", revenues produced through the application of an ISRC exclusive of revenues from all other rates and charges;

(7) "Water corporation", every corporation, company, association, joint stock company or association, partnership and person, their lessees, trustees, or receivers appointed by any court whatsoever, owning, operating, controlling, or managing any plant or property, dam or water supply, canal, or power station, distributing or selling for distribution, or selling or supplying for gain any water as defined in section 386.020, RSMo;

(8) "Water utility plant projects", may consist of the following:

(a) Mains, valves, and hydrants installed as replacements for existing facilities that have worn out or are in deteriorated condition;

(b) Main cleaning and relining projects; and

(c) Unreimbursed funds related to capital projects for required relocations of company facilities due to highway relocations.

393.1003. 1. Notwithstanding any provisions of chapters 386 and 393, RSMo, to the contrary, immediately upon the effectuation of sections 393.1000 to 393.1006, a water corporation providing water service may file a petition with the commission to establish or change ISRC rate schedules that will allow for the adjustment of the water corporation's rates and charges per a separate line billing item to provide for the recovery of prudently incurred costs for eligible infrastructure system replacements. The commission may not approve an ISRC to the extent it would produce total ISRC revenues exceeding ten percent of the water corporation's base revenue level approved by the commission in the water corporation's most recent general rate proceeding. This charge and any future changes shall be implemented in accordance with section 393.1006. The ISRC shall be subject to a refund based upon a finding and order of the commission.

2. The commission shall not approve an ISRC for a water corporation that has not had a general rate proceeding decided by the commission within the past three years.

3. In no event shall a water corporation collect an ISRC for a period exceeding three years unless the water corporation has filed for or is the subject of a new general rate proceeding.

393.1006. 1. The water corporation shall serve the office of the public counsel with a copy of its filing at the time of its filing with the commission.

2. (1) When a petition is filed pursuant to sections 393.1000 to 393.1006, the

commission shall conduct an examination of the proposed rate.

(2) The staff of the commission may examine information of the water corporation to confirm that the underlying costs are in accordance with this section, to confirm proper calculation of the proposed charge, and may submit a report to the commission not later than sixty days after the petition is filed.

(3) The commission may hold a hearing and shall issue an order not later than one hundred twenty days after the petition is filed.

(4) If the commission finds that a petition complies with the requirements of sections 393.1000 to 393.1006, the commission shall enter an order authorizing the water corporation to impose an ISRC charge that is sufficient to recover appropriate pretax revenue and depreciation, as determined by the commission pursuant to the provisions of this section; provided that the commission shall only allow charges to apply to classes of customers receiving a benefit or shall prorate the charge according to the benefit received by each class of customers. The commission shall consider any allowances granted to the corporation in its last general rate proceeding for infrastructure improvements in determining the appropriate ISRC pursuant to this subdivision.

3. A water corporation may file a petition for a change in an ISRC rate under this section no more often than one time every twelve months.

4. In determining the appropriate pretax revenue, the commission may consider the following factors:

(1) The current state, federal and local income tax or excise rates;

(2) The water corporation's actual regulatory capital structure as determined during the most recent general rate proceeding of the water corporation;

(3) The actual cost rates for the water corporation's debt and preferred stock as determined during the most recent general rate proceeding of the water corporation;

(4) The water corporation's cost of common equity as determined at the most recent general rate proceeding of the water corporation.

5. The charge may be calculated based on a reasonable estimate of revenues in the period in which the charge will be in effect. At the end of each twelve month calendar period the charge is in effect, the water corporation shall reconcile the differences between the revenues resulting from the charge and the underlying costs during that period and shall submit the reconciliation and adjustment to the commission for approval to recover or refund the difference, as appropriate, through adjustment of the charge.

6. A water corporation that has implemented a charge pursuant to section

393.1003 shall file revised rate schedules to adjust the charge when new base rates and charges become effective for the water corporation following a commission order authorizing a general increase in rates and charges that includes in the utility's rate base eligible costs previously reflected in the charge.

7. The filing of a charge pursuant to this section and a change in such charge is not a general increase in base rates and charges.

8. The commission shall have authority to promulgate rules for the implementation of sections 393.100 to 393.1006. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2003, shall be invalid and void.

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