

SECOND REGULAR SESSION

SENATE BILL NO. 1078

93RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR BRAY.

Read 1st time February 20, 2006, and ordered printed.

5217S.011

TERRY L. SPIELER, Secretary.

AN ACT

To repeal section 386.390, RSMo, and to enact in lieu thereof one new section relating to the public service commission.

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

Section A. Section 386.390, RSMo, is repealed and one new section
2 enacted in lieu thereof, to be known as section 386.390, to read as follows:

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, board
3 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, **alleging that a public utility's**
6 **rates are excessive, or otherwise** setting forth any act or thing done or
7 omitted to be done by any corporation, person or public utility, including any rule,
8 regulation or charge heretofore established or fixed by or for any corporation,
9 person or public utility, in violation, or claimed to be in violation, of any provision
10 of law, or of any rule or order or decision of the commission[; provided, that no
11 complaint shall be entertained by the commission, except upon its own motion,
12 as to the reasonableness of any rates or charges of any gas, electrical, water,
13 sewer, or telephone corporation, unless the same be signed by the public counsel
14 or the mayor or the president or chairman of the board of aldermen or a majority
15 of the council, commission or other legislative body of any city, town, village or
16 county, within which the alleged violation occurred, or not less than twenty-five
17 consumers or purchasers, or prospective consumers or purchasers, of such gas,

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

18 electricity, water, sewer or telephone service].

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

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

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

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

37 **6. If the complaint alleges that a public utility's rates are**
38 **excessive, the public utility shall, within thirty days or such lesser time**
39 **as may be prescribed by the commission, file a bond or undertaking**
40 **approved by the commission conditioned upon the refund in a manner**
41 **prescribed by the commission of amounts collected after the date of**
42 **filing of the petition in excess of rates and charges finally determined**
43 **by the commission to be lawful, with interest thereon at the legal rate.**
44 **If, upon hearing, the commission finds that the public utility's rates are**
45 **unlawful, the commission shall order a refund, with interest, at the legal**
46 **rate of amounts collected after the date of filing the petition that are**
47 **determined to be in excess of the amounts that would have been**
48 **collected under the rates finally approved. In any hearing upon a**
49 **complaint brought under this subsection, the complainant or**
50 **complainants shall have the obligation to present evidence to**
51 **preliminarily support the alleged overcharge. However, the burden of**
52 **proof to show that the existing rate or the rate complained against is**
53 **just and reasonable at all times shall be upon the public utility.**

54 7. The commission shall issue a final order deciding any

55 **complaint under this section within eleven months of the complaint**
56 **having been filed.**

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Bill

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