

SECOND REGULAR SESSION

# SENATE BILL NO. 880

93RD GENERAL ASSEMBLY

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INTRODUCED BY SENATORS BRAY, COLEMAN, WHEELER AND KENNEDY.

Read 1st time January 17, 2006, and ordered printed.

TERRY L. SPIELER, Secretary.

4362S.011

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## AN ACT

To repeal section 386.266, RSMo, and to enact in lieu thereof one new section relating to alternate rate schedules.

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*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Section A. Section 386.266, RSMo, is repealed and one new section  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 corporation may  
29 make an application to the commission to approve rate schedules authorizing  
30 periodic rate adjustments outside of general rate proceedings to reflect the nongas  
31 revenue effects of increases or decreases in residential and commercial customer  
32 usage due to variations in either weather, conservation, or both.

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

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

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

47 (3) In the case of an adjustment mechanism submitted under  
48 [subsections] **subsection 1 [and 2]** of this section, includes provisions requiring  
49 that the utility file a general rate case with the effective date of new rates to be  
50 no later than four years after the effective date of the commission order  
51 implementing the adjustment mechanism. However, with respect to [each] **the**  
52 mechanism, the four-year period shall not include any periods in which the utility  
53 is prohibited from collecting any charges under the adjustment mechanism, or  
54 any period for which charges collected under the adjustment mechanism must be  
55 fully refunded. In the event a court determines that the adjustment mechanism

56 is unlawful and all moneys collected thereunder are fully refunded, the utility  
57 shall be relieved of any obligation under that adjustment mechanism to file a rate  
58 case;

59 (4) In the case of an adjustment mechanism submitted under subsection  
60 1 [or 2] of this section, includes provisions for prudence reviews of the costs  
61 subject to the adjustment mechanism no less frequently than at eighteen-month  
62 intervals, and shall require refund of any imprudently incurred costs plus  
63 interest at the utility's short-term borrowing rate.

64 [5.] 3. Once such an adjustment mechanism is approved by the  
65 commission under this section, it shall remain in effect until such time as the  
66 commission authorizes the modification, extension, or discontinuance of the  
67 mechanism in a general rate case or complaint proceeding.

68 [6.] 4. Any amounts charged under [any] an adjustment mechanism  
69 approved by the commission under this section shall be separately disclosed on  
70 each customer bill.

71 [7.] 5. The commission may take into account any change in business risk  
72 to the corporation resulting from implementation of the adjustment mechanism  
73 in setting the corporation's allowed return in any rate proceeding, in addition to  
74 any other changes in business risk experienced by the corporation.

75 [8.] 6. In the event the commission lawfully approves an incentive- or  
76 performance-based plan, such plan shall be binding on the commission for the  
77 entire term of the plan. This subsection shall not be construed to authorize or  
78 prohibit any incentive- or performance-based plan.

79 [9.] 7. Prior to August 28, 2005, the commission shall have the authority  
80 to promulgate rules under the provisions of chapter 536, RSMo, as it deems  
81 necessary, to govern the structure, content and operation of such rate  
82 adjustments, and the procedure for the submission, frequency, examination,  
83 hearing and approval of such rate adjustments. Such rules shall be promulgated  
84 no later than one hundred fifty days after the initiation of such rulemaking  
85 proceeding. Any electrical, gas, or water corporation may apply for [any] an  
86 adjustment mechanism under this section whether or not the commission has  
87 promulgated any such rules.

88 [10.] 8. Nothing contained in this section shall be construed as affecting  
89 any existing adjustment mechanism, rate schedule, tariff, incentive plan, or other  
90 ratemaking mechanism currently approved and in effect.

91 [11.] 9. Each of the provisions of this section is severable. In the event

92 any provision or subsection of this section is deemed unlawful, all remaining  
93 provisions shall remain in effect.

94 [12.] 10. The provisions of this section shall take effect on January 1,  
95 2006, and the commission shall have previously promulgated rules to implement  
96 the application process for any rate adjustment mechanism under this section  
97 prior to the commission issuing an order for any rate adjustment.

98 [13.] 11. The public service commission shall appoint a task force,  
99 consisting of all interested parties, to study and make recommendations on the  
100 cost recovery and implementation of conservation and weatherization programs  
101 for electrical and gas corporations.

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Bill

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