

SENATE SUBSTITUTE
FOR
SENATE BILL NO. 705

AN ACT

To repeal section 386.266, RSMo, and to enact in lieu thereof one new section relating to rate adjustments outside of general rate proceedings for certain public utilities.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI,
AS FOLLOWS:

1 Section A. Section 386.266, RSMo, is repealed and one new
2 section enacted in lieu thereof, to be known as section 386.266,
3 to read as follows:

4 386.266. 1. Subject to the requirements of this section,
5 any electrical corporation may make an application to the
6 commission to approve rate schedules authorizing an interim
7 energy charge, or periodic rate adjustments outside of general
8 rate proceedings to reflect increases and decreases in its
9 prudently incurred fuel and purchased-power costs, including
10 transportation. The commission may, in accordance with existing
11 law, include in such rate schedules features designed to provide
12 the electrical corporation with incentives to improve the
13 efficiency and cost-effectiveness of its fuel and purchased-power
14 procurement activities.

15 2. Subject to the requirements of this section, any
16 electrical, gas, or water corporation may make an application to
17 the commission to approve rate schedules authorizing periodic
18 rate adjustments outside of general rate proceedings to reflect

1 increases and decreases in its prudently incurred costs, whether
2 capital or expense, to comply with any federal, state, or local
3 environmental law, regulation, or rule. Any rate adjustment made
4 under such rate schedules shall not exceed an annual amount equal
5 to two and one-half percent of the electrical, gas, or water
6 corporation's Missouri gross jurisdictional revenues, excluding
7 gross receipts tax, sales tax and other similar pass-through
8 taxes not included in tariffed rates, for regulated services as
9 established in the utility's most recent general rate case or
10 complaint proceeding. In addition to the rate adjustment, the
11 electrical, gas, or water corporation shall be permitted to
12 collect any applicable gross receipts tax, sales tax, or other
13 similar pass-through taxes, and such taxes shall not be counted
14 against the two and one-half percent rate adjustment cap. Any
15 costs not recovered as a result of the annual two and one-half
16 percent limitation on rate adjustments may be deferred, at a
17 carrying cost each month equal to the utilities net of tax cost
18 of capital, for recovery in a subsequent year or in the
19 corporation's next general rate case or complaint proceeding.

20 3. Subject to the requirements of this section, any gas
21 corporation may make an application to the commission to approve
22 rate schedules authorizing periodic rate adjustments outside of
23 general rate proceedings to reflect the nongas revenue effects of
24 increases or decreases in residential and commercial customer
25 usage due to variations in either weather, conservation, or both.

26 4. Subject to the requirements of this section, a water or
27 sewer corporation with more than eight thousand Missouri retail
28 customers may make an application to the commission to approve

1 rate schedules authorizing periodic rate adjustments outside of
2 general rate proceedings to ensure revenues billed by such water
3 or sewer corporation for regulated services equal the revenue
4 requirement for regulated services as established in the water or
5 sewer corporation's most recent general rate proceeding or
6 complaint proceeding, excluding any other commission-approved
7 surcharges and gross receipts tax, sales tax, and other similar
8 pass-through taxes not included in tariffed rates, due to any
9 revenue variation resulting from increases or decreases in
10 residential, commercial, public authority, and sale for resale
11 usage.

12 5. The commission shall have the power to approve, modify,
13 or reject adjustment mechanisms submitted under subsections 1 to
14 ~~[3]~~ 4 of this section only after providing the opportunity for a
15 full hearing in a general rate proceeding, including a general
16 rate proceeding initiated by complaint. The commission may
17 approve such rate schedules after considering all relevant
18 factors which may affect the costs or overall rates and charges
19 of the corporation, provided that it finds that the adjustment
20 mechanism set forth in the schedules:

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

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

27 (3) In the case of an adjustment mechanism submitted under
28 subsections 1 and 2 of this section, includes provisions

1 requiring that the utility file a general rate case with the
2 effective date of new rates to be no later than four years after
3 the effective date of the commission order implementing the
4 adjustment mechanism. However, with respect to each mechanism,
5 the four-year period shall not include any periods in which the
6 utility is prohibited from collecting any charges under the
7 adjustment mechanism, or any period for which charges collected
8 under the adjustment mechanism must be fully refunded. In the
9 event a court determines that the adjustment mechanism is
10 unlawful and all moneys collected thereunder are fully refunded,
11 the utility shall be relieved of any obligation under that
12 adjustment mechanism to file a rate case;

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

19 [5.] 6. Once such an adjustment mechanism is approved by
20 the commission under this section, it shall remain in effect
21 until such time as the commission authorizes the modification,
22 extension, or discontinuance of the mechanism in a general rate
23 case or complaint proceeding.

24 [6.] 7. Any amounts charged under any adjustment mechanism
25 approved by the commission under this section shall be separately
26 disclosed on each customer bill.

27 [7.] 8. The commission may take into account any change in
28 business risk to the corporation resulting from implementation of

1 the adjustment mechanism in setting the corporation's allowed
2 return in any rate proceeding, in addition to any other changes
3 in business risk experienced by the corporation.

4 [8.] 9. In the event the commission lawfully approves an
5 incentive- or performance-based plan, such plan shall be binding
6 on the commission for the entire term of the plan. This
7 subsection shall not be construed to authorize or prohibit any
8 incentive- or performance-based plan.

9 [9.] 10. Prior to August 28, 2005, for subsections 1 to 3
10 of this section, and upon the effective date of this section for
11 subsection 4 of this section, the commission shall have the
12 authority to promulgate rules under the provisions of chapter 536
13 as it deems necessary, to govern the structure, content and
14 operation of such rate adjustments, and the procedure for the
15 submission, frequency, examination, hearing and approval of such
16 rate adjustments. [Such rules shall be promulgated no later than
17 one hundred fifty days after the initiation of such rulemaking
18 proceeding.] Any electrical, gas, [or] water, or sewer
19 corporation may apply for any adjustment mechanism under this
20 section whether or not the commission has promulgated any such
21 rules.

22 [10.] 11. Nothing contained in this section shall be
23 construed as affecting any existing adjustment mechanism, rate
24 schedule, tariff, incentive plan, or other ratemaking mechanism
25 currently approved and in effect.

26 [11.] 12. Each of the provisions of this section is
27 severable. In the event any provision or subsection of this
28 section is deemed unlawful, all remaining provisions shall remain

1 in effect.

2 [12.] 13. The provisions of subsections 1 to 3 of this
3 section shall take effect on January 1, 2006, and the commission
4 shall have previously promulgated rules to implement the
5 application process for any rate adjustment mechanism under
6 subsections 1 to 3 of this section prior to the commission
7 issuing an order for any rate adjustment.

8 [13.] 14. The public service commission shall appoint a
9 task force, consisting of all interested parties, to study and
10 make recommendations on the cost recovery and implementation of
11 conservation and weatherization programs for electrical and gas
12 corporations.