

FIRST REGULAR SESSION

HOUSE BILL NO. 355

100TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE PLOCHER.

0874H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 386.510 and 386.515, RSMo, and to enact in lieu thereof two new sections relating to the public service commission.

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

Section A. Sections 386.510 and 386.515, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 386.510 and 386.515, to read as follows:

386.510. With respect to commission orders or decisions issued on and after July 1, 2011, within thirty days after the application for a rehearing is denied, or, if the application is granted, then within thirty days after the rendition of the decision on rehearing, the applicant may file a notice of appeal with ~~[the commission, which shall also be served on the parties to the commission proceeding in accordance with section 386.515, and which the commission shall forward to]~~ the appellate court with the territorial jurisdiction over the county where the hearing was held or in which the commission has its principal office for the purpose of having the reasonableness or lawfulness of the original order or decision or the order or decision on rehearing inquired into or determined, **which shall also be served on the commission and the parties to the commission proceeding in accordance with section 386.515**. Except with respect to a stay or suspension pursuant to subsection 1 of section 386.520, no new or additional evidence may be introduced in the appellate court but the cause shall be heard by the court without the intervention of a jury on the evidence and exhibits introduced before the commission and certified to by it. The notice of appeal shall include the appellant's application for rehearing, a copy of the reconciliation required by subsection 4 of section 386.420, a concise statement of the issues being appealed, a full and complete list of the parties to the commission proceeding, **all necessary filing fees**, and any other information specified by the rules of the court. Unless

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

18 otherwise ordered by the court of appeals, the commission shall, within thirty days of the filing
19 of the notice of appeal, certify its record in the case to the court of appeals. The commission and
20 each party to the action or proceeding before the commission shall have the right to intervene and
21 participate fully in the review proceedings. Upon the submission of the case to the court of
22 appeals, the court of appeals shall render its opinion either affirming or setting aside, in whole
23 or in part, the order or decision of the commission under review. In case the order or decision
24 is reversed by reason of the commission failing to receive testimony properly proffered, the court
25 shall remand the cause to the commission, with instructions to receive the testimony so proffered
26 and rejected, and enter a new order or render a new decision based upon the evidence theretofore
27 taken, and such as it is directed to receive. The court may, in its discretion, remand any cause
28 which is reversed by it to the commission for further action. No court in this state, except the
29 supreme court or the court of appeals, shall have jurisdiction or authority to review, reverse,
30 correct or annul any order or decision of the commission or to suspend or delay the executing
31 or operation thereof, or to enjoin, restrain or interfere with the commission in the performance
32 of its official duties. The appellate courts of this state shall always be deemed open for the trial
33 of suits brought to review the orders and decisions of the commission as provided in the public
34 service commission law and the same shall where necessary be tried and determined as suits in
35 equity.

386.515. With respect to commission orders or decisions issued on and after July 1,
2 2011, an application for rehearing is required to be served on all parties and is a prerequisite to
3 the filing of an appeal under section 386.510. The application for rehearing puts the parties to
4 the proceeding before the commission on notice that an appeal can follow and any such review
5 under the appeal may proceed provided that a copy of the notice of appeal is served on said
6 parties. With respect to commission orders or decisions issued on and after July 1, 2011, the
7 review procedure provided for in section 386.510 continues to be exclusive except that a copy
8 of the notice of appeal required by section 386.510 shall be served on **the commission and** each
9 party to the proceeding before the commission by the appellant according to the rules established
10 by the court in which the appeal is filed.

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