

SECOND REGULAR SESSION

SENATE BILL NO. 902

96TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR LAMPING.

Read 1st time March 1, 2012, and ordered printed.

TERRY L. SPIELER, Secretary.

6047S.011

AN ACT

To repeal section 393.150, RSMo, and to enact in lieu thereof two new sections relating to the regulation of public utilities.

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

Section A. Section 393.150, RSMo, is repealed and two new sections
2 enacted in lieu thereof, to be known as sections 386.715 and 393.150, to read as
3 follows:

386.715. 1. The public counsel shall, prior to the beginning of
2 **each fiscal year, make available to the commission an estimate of the**
3 **expenses to be incurred by the public counsel during such fiscal year,**
4 **reasonably attributable to his or her responsibilities under sections**
5 **386.700 and 386.710 and shall also separately estimate the amount of**
6 **such expenses directly attributable to such responsibilities with respect**
7 **to each of the following groups of public utilities: electrical**
8 **corporations, gas corporations, water corporations, heating companies,**
9 **telephone corporations, telegraph corporations, sewer corporations,**
10 **and any other public utility as defined in section 386.020, as well as the**
11 **amount of such expenses not directly attributable to any such group.**

12 **2. The public counsel shall allocate to each such group of public**
13 **utilities the estimated expenses directly attributable to his or her**
14 **responsibilities under sections 386.700 and 386.710 with respect to such**
15 **group and an amount equal to such proportion of the estimated**
16 **expenses not directly attributable to any group as the gross intrastate**
17 **operating revenues of such group during the three preceding calendar**
18 **years bears to the total gross intrastate operating revenues of all public**
19 **utilities subject to the jurisdiction of the commission during such**
20 **calendar years. The amount so allocated to telephone corporations**

21 shall not exceed three percent of the total estimated expenses directly
22 attributable to the public counsel's responsibilities under sections
23 386.700 and 386.710. The commission shall then assess, on behalf of the
24 public counsel, the amount so allocated to each group of public
25 utilities, subject to reduction as provided in this section, to the public
26 utilities in such group in proportion to its respective gross intrastate
27 operating revenues during the preceding calendar year. The amount
28 assessed shall not exceed four hundredths of one percent. Nothing in
29 this section shall authorize the commission to determine how the public
30 counsel allocates the estimated expenses directly attributable to his or
31 her responsibilities under sections 386.700 and 386.710 or how the
32 assessment imposed under this section is spent by the public counsel.

33 3. On behalf of the public counsel, the commission shall render
34 a statement of such assessment to each such public utility on or before
35 July first and the amount assessed to each such public utility shall be
36 paid by it to the director of revenue in full on or before July fifteenth
37 next following the rendition of such statement, except that any such
38 public utility may at its election pay such assessment in four equal
39 installments not later than the following dates next following the
40 rendition of such statement, to wit: July fifteenth, October fifteenth,
41 January fifteenth, and April fifteenth. The director of revenue shall
42 remit such payments to the state treasurer.

43 4. The state treasurer shall credit such payments to a special
44 fund, which is hereby created, to be known as "The Public Counsel
45 Fund", which fund, or its successor fund created under section 33.571,
46 shall be devoted solely to the payment of expenditures actually
47 incurred by the public counsel and attributable to his or her
48 responsibilities under sections 386.700 and 386.710 and shall consist of
49 all gifts, donations, appropriations, transfers, payments, and bequests
50 to the fund and investment income on the fund. Any amount remaining
51 in such special fund or its successor fund at the end of any fiscal year
52 shall not revert to the general revenue fund, but shall be applicable to
53 the payment of such expenditures of the public counsel in the
54 succeeding fiscal year and shall be applied by the public counsel to the
55 reduction of the amount to be assessed to such public utilities in such
56 succeeding fiscal year, such reduction to be allocated to each group of
57 public utilities in proportion to the respective gross intrastate

58 **operating revenues of the respective groups during the preceding**
59 **calendar year.**

60 **5. In order to enable the public counsel to make the allocations**
61 **and assessments provided for in this section, each public utility subject**
62 **to the jurisdiction of the commission shall file with the commission on**
63 **or before March thirty-first of each year, a statement under oath**
64 **showing its gross intrastate operating revenues for the preceding**
65 **calendar year, and if any public utility shall fail to file such statement**
66 **within the time established in this subsection, the commission shall**
67 **estimate such revenue. Such estimate shall be binding on such public**
68 **utility for the purpose of this section.**

393.150. 1. Whenever there shall be filed with the commission by any gas
2 corporation, electrical corporation, water corporation or sewer corporation any
3 schedule stating a new rate or charge, or any new form of contract or agreement,
4 or any new rule, regulation or practice relating to any rate, charge or service or
5 to any general privilege or facility, the commission shall have, and it is hereby
6 given, authority, either upon complaint or upon its own initiative without
7 complaint, at once, and if it so orders without answer or other formal pleading by
8 the interested gas corporation, electrical corporation, water corporation or sewer
9 corporation, but upon reasonable notice, to enter upon a hearing concerning the
10 propriety of such rate, charge, form of contract or agreement, rule, regulation or
11 practice, and pending such hearing and the decision thereon, the commission
12 upon filing with such schedule, and delivering to the gas corporation, electrical
13 corporation, water corporation or sewer corporation affected thereby, a statement
14 in writing of its reasons for such suspension, may suspend the operation of such
15 schedule and defer the use of such rate, charge, form of contract or agreement,
16 rule, regulation or practice, but not for a longer period than one hundred and
17 twenty days beyond the time when such rate, charge, form of contract or
18 agreement, rule, regulation or practice would otherwise go into effect; and after
19 full hearing, whether completed before or after the rate, charge, form of contract
20 or agreement, rule, regulation or practice goes into effect, the commission may
21 make such order in reference to such rate, charge, form of contract or agreement,
22 rule, regulation or practice as would be proper in a proceeding initiated after the
23 rate, charge, form of contract or agreement, rule, regulation or practice had
24 become effective.

25 2. If any such hearing cannot be concluded within the period of

26 suspension, as above stated, the commission may, in its discretion, extend the
27 time of suspension for a further period not exceeding six months. At any hearing
28 involving a rate sought to be increased, the burden of proof to show that the
29 increased rate or proposed increased rate is just and reasonable shall be upon the
30 gas corporation, electrical corporation, water corporation or sewer corporation,
31 and the commission shall give to the hearing and decision of such questions
32 preference over all other questions pending before it and decide the same as
33 speedily as possible.

34 **3. Upon conclusion of the rate case proceeding or a complaint**
35 **involving rates brought under section 386.390, the commission shall**
36 **issue its order authorizing temporary and prospective rate**
37 **adjustments. Such adjustments shall be calculated based on the record**
38 **evidence in the proceeding under review and the information contained**
39 **in the reconciliation and billing determinants provided by the**
40 **commission under subsection 4 of section 386.420 and in accordance**
41 **with the procedures set forth in subsection 4 of this section.**

42 **4. (1) If the effect of the commission's order is to decrease the**
43 **public utility's rates and charges then the commission shall, in addition**
44 **to a permanent rate adjustment, approve a temporary rate adjustment,**
45 **designed to flow through to the public utility's then-existing customers**
46 **the amounts that were collected by the utility in excess of the amounts**
47 **that would have been collected by the utility had the rates authorized**
48 **by the commission in its order been in effect for the period defined in**
49 **this subdivision, plus interest at the higher of the prime bank lending**
50 **rate minus two percentage points or zero. Such amounts shall be**
51 **calculated for the period commencing with the date revenues, rate**
52 **base, and expenses were last updated or trued-up in the rate**
53 **proceeding and the date the new rates authorized by the commission**
54 **are scheduled to go into effect. Such amounts shall be reflected as a**
55 **temporary rate adjustment over a one-year period of time utilizing the**
56 **rate design approved by the commission in the rate proceeding.**

57 **(2) If the effect of the commission's order is to increase the**
58 **public utility's rates and charges, then the commission shall approve,**
59 **in addition to a permanent rate adjustment, a temporary rate**
60 **adjustment designed to allow the public utility to recover from its then-**
61 **existing customers the amounts it would have collected had the rates**
62 **authorized by the commission in its order been in effect for the period**

63 defined in this subdivision, plus interest at the higher of the prime
64 bank lending rate minus two percentage points or zero. Such amounts
65 shall be calculated for the period commencing with the date revenues,
66 rate base, and expenses were last updated or trued-up in the rate
67 proceeding and the date the new rates authorized by the commission
68 are scheduled to go into effect. Such amounts shall be reflected as a
69 temporary rate adjustment over a one-year period of time utilizing the
70 rate design approved by the commission in the rate proceeding.

✓

Unofficial

Bill

Copy