

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 48
96TH GENERAL ASSEMBLY

0251L.04C

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 247.060, 250.236, 386.420, 386.490, 386.510, 386.515, 386.520, 386.530, 386.540, 393.015, 393.275, 393.1000, 393.1003, 414.530, 414.560, 414.570, and 660.122, RSMo, and to enact in lieu thereof eighteen new sections relating to utilities, with an emergency clause for certain sections.

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

Section A. Sections 247.060, 250.236, 386.420, 386.490, 386.510, 386.515, 386.520, 2 386.530, 386.540, 393.015, 393.275, 393.1000, 393.1003, 414.530, 414.560, 414.570, and 3 660.122, RSMo, are repealed and eighteen new sections enacted in lieu thereof, to be known as 4 sections 247.060, 250.236, 386.420, 386.490, 386.510, 386.515, 386.520, 386.530, 386.540, 5 393.015, 393.152, 393.275, 393.1000, 393.1003, 414.530, 414.560, 414.570, and 660.122, to 6 read as follows:

247.060. 1. The management of the business and affairs of the district is hereby vested 2 in a board of directors, who shall have all the powers conferred upon the district except as herein 3 otherwise provided[, who shall serve without pay]. It shall be composed of five members, each 4 of whom shall be a voter of the district and shall have resided in said district one whole year 5 immediately prior to his election. A member shall be at least twenty-five years of age and shall 6 not be delinquent in the payment of taxes at the time of his election. Except as provided in 7 subsection 2 of this section, the term of office of a member of the board shall be three years. The 8 remaining members of the board shall appoint a qualified person to fill any vacancy on the board. 9 If no qualified person who lives in the subdistrict for which there is a vacancy is willing to serve 10 on the board, the board may appoint an otherwise qualified person who lives in the district but 11 not in the subdistrict in which the vacancy exists to fill such vacancy.

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.

12 2. After notification by certified mail that he or she has two consecutive unexcused
13 absences, any member of the board failing to attend the meetings of the board for three
14 consecutive regular meetings, unless excused by the board for reasons satisfactory to the board,
15 shall be deemed to have vacated the seat, and the secretary of the board shall certify that fact to
16 the board. The vacancy shall be filled as other vacancies occurring in the board.

17 3. The initial members of the board shall be appointed by the circuit court and one shall
18 serve until the immediately following first Tuesday after the first Monday in April, two shall
19 serve until the first Tuesday after the first Monday in April on the second year following their
20 appointment and the remaining appointees shall serve until the first Tuesday after the first
21 Monday in April on the third year following their appointment. On the expiration of such terms
22 and on the expiration of any subsequent term, elections shall be held as otherwise provided by
23 law, and such elections shall be held in April pursuant to section 247.180.

24 4. In 2008, 2009, and 2010, directors elected in such years shall serve from the first
25 Tuesday after the first Monday in June until the first Tuesday in April of the third year following
26 the year of their election. All directors elected thereafter shall serve from the first Tuesday in
27 April until the first Tuesday in April of the third year following the year of their election.

28 **5. Each member of the board may receive an attendance fee not to exceed one**
29 **hundred dollars for attending each regularly called board meeting or special meeting but**
30 **shall not be paid for attending more than two meetings in any calendar month, except that**
31 **in a county of the first classification, a member shall not be paid for attending more than**
32 **four meetings any calendar month. However, no board member shall be paid more than**
33 **one attendance fee if such member attends more than one board meeting in a calendar**
34 **week. In addition, the chairperson of the board of directors may receive fifty dollars for**
35 **attending each regularly or specially called board meeting but shall not be paid the**
36 **additional fee for attending more than two meetings any calendar month. Each member**
37 **of the board shall be reimbursed for his or her actual expenditures in the performance of**
38 **his or her duties on behalf of the district. The secretary and the treasurer, if members of**
39 **the board of directors, may each receive such additional compensation for the performance**
40 **of their respective duties as secretary and treasurer as the board shall deem reasonable and**
41 **necessary, not to exceed one thousand dollars per year. The circuit court having**
42 **jurisdiction over the district shall have the power to remove directors for good cause shown**
43 **upon a petition, notice, and hearing.**

44 **6. In no event, however, shall a board member receive any attendance fees or**
45 **additional compensation authorized in subsection 5 of this section until after such board**
46 **member has completed a course of training found acceptable by the board regarding the**
47 **responsibilities of the board and its members concerning the basics of water treatment and**

48 distribution, budgeting and rates, water utility planning, the funding of capital
49 improvements, the understanding of water utility financial statements, and the Missouri
50 sunshine law.

51 7. The circuit court of the county having jurisdiction over the district shall have
52 jurisdiction over the members of the board of directors to suspend any member from
53 exercising his or her office, whensoever it appears that he or she has abused his or her trust
54 or become disqualified; to remove any member upon proof or conviction of gross
55 misconduct or disqualification for his or her office; or to restrain and prevent any
56 alienation of property of the district by members, in cases where it is threatened, or there
57 is good reason to apprehend that it is intended to be made in fraud of the rights and
58 interests of the district.

59 8. The jurisdiction conferred by this section shall be exercised as in ordinary cases
60 upon petition, filed by or at the instance of any member of the board, or at the instance of
61 any ten voters residing in the district who join in the petition, verified by the affidavit of
62 at least one of them. The petition shall be heard in a summary manner after ten days'
63 notice in writing to the member or officer complained of. An appeal shall lie from the
64 judgment of the circuit court as in other causes, and shall be speedily determined; but an
65 appeal does not operate under any condition as a supersedeas of a judgment of suspension
66 or removal from office.

67 9. In no event, however, shall a board member receive any attendance fees or
68 additional compensation authorized in subsection 5 of this section if any person entitled
69 to water service within the district pursuant to this section and chapter who has made a
70 proper request for water service, has gone without water service or has not been connected
71 to water service, within eight months of the time such request for water service was made.
72 Attendance fees shall be permanently forfeited for the period running from immediately
73 after the end of the eight month grace period until such time as the person's water service
74 is restored or connected. Additional fees may be paid to the board once the deficiency in
75 water service has been resolved. The secretary and treasurer shall decline to pay the
76 attendance fee to the board members upon verification of the lack of water service, and
77 shall require the restitution of any fees paid that are properly subject to forfeiture. Any
78 person alleging a lack of proper water service pursuant to this subsection may enforce the
79 provisions of this section in any court of proper jurisdiction. Such court shall provide
80 injunctive relief to enforce the provisions of this subsection upon a determination that the
81 standards for water service required for the conditional payment of board members have
82 not been met.

250.236. 1. Any city, town or village may contract with a private or public water company to terminate water services, at the direction of the city, because a customer fails to pay his sewer bill. When charges for sewer services are in arrears for more than three months and after the city sends notice to the customer [by certified mail], the city may disconnect the customer's sewer line or request in writing that the private or public water company discontinue water service until such time as the sewer charges and all related costs are paid.

2. A private or public water company acting pursuant to a written request from the city as provided in subsection 1 of this section is not liable for damages related to termination of water services. All costs related to disconnection and reconnections shall be reimbursed to the private water company by the city.

386.420. 1. At the time fixed for any hearing before the commission or a commissioner, or the time to which the same may have been continued, the complainant, the public counsel and the corporation, person or public utility complained of, and such corporations and persons as the commission may allow to intervene, shall be entitled to be heard and to introduce evidence. The commission shall issue process to enforce the attendance of all necessary witnesses.

2. Whenever an investigation shall be made by the commission, it shall be its duty, to make a report in writing in respect thereto, which shall state the conclusions of the commission, together with its decision, order or requirement in the premises. The commission or any commissioner or any party may, in any investigation or hearing before the commission, cause the deposition of witnesses residing within or without the state to be taken in the manner prescribed by law for like depositions in civil actions in the circuit courts of this state and to that end may compel the attendance of witnesses and the production of books, waybills, documents, papers, memoranda and accounts. Witnesses whose depositions are taken as provided in this section and the officer taking the same shall severally be entitled to the same fees as are paid for like services in the circuit courts of this state.

3. If an order cannot, in the judgment of the commission, be complied with within thirty days, the commission may grant and prescribe such additional time as in its judgment is reasonably necessary to comply with the order, and may, on application and for good cause shown, extend the time for compliance fixed in its order.

4. A full and complete record shall be made of all proceedings before the commission or any commissioner on any formal hearing had, and all testimony shall be taken down by a reporter appointed by the commission, and the parties shall be entitled to be heard in person or by attorney. Preparation of a printed transcript may be waived by unanimous consent of all the parties. In case of an action to review any order or decision of the commission, a transcript of such testimony, together with all exhibits or copies thereof introduced and all information secured by the commission on its own initiative and considered by it in rendering its order or

27 decision, and of the pleadings, record and proceedings in the cause, shall constitute the record
28 of the commission; provided, that on review of an order or decision of the commission, the
29 [petitioner] **appellant** and the commission may stipulate that a certain question or questions
30 alone and a specified portion only of the evidence shall be certified to the [circuit] **reviewing**
31 court for its judgment, whereupon such stipulation and the question or questions and the
32 evidence therein specified shall constitute the record on review. **In any proceeding resulting**
33 **in the establishment of new rates for a public utility, the commission shall cause to be**
34 **prepared, with the assistance of the parties to such proceeding, and shall approve, after**
35 **allowing the parties a reasonable opportunity to provide written input, a detailed**
36 **reconciliation containing the dollar value and rate or charge impact of each contested issue**
37 **decided by the commission, and the customer class billing determinants used by the**
38 **commission to calculate the rates and charges approved by the commission in such**
39 **proceeding. Such information shall be sufficient to permit a reviewing court and the**
40 **commission on remand from a reviewing court to determine how the public utility's rates**
41 **and charges, including the rates and charges for each customer class, would need to be**
42 **temporarily and, if applicable, permanently adjusted to provide customers or the public**
43 **utility with any monetary relief that may be due in accordance with the procedures set**
44 **forth in section 386.520. In the event there is any dispute over the value of a particular**
45 **issue or the correctness of a billing determinant, the commission shall also include in the**
46 **reconciliation a quantification of the dollar value and rate or charge impact associated with**
47 **the dispute.**

386.490. 1. Every order of the commission shall be served upon every person or
2 corporation to be affected thereby, either by personal delivery of a certified copy thereof, **by**
3 **electronic service**, or by mailing a certified copy thereof, in a sealed package with postage
4 prepaid, to the person to be affected thereby, or, in the case of a corporation, to any officer or
5 agent thereof upon whom a summons may be served in accordance with the provisions of the
6 code of civil procedure.

2. [It shall be the duty of every person and corporation to notify the commission
8 forthwith, in writing, of the receipt of the certified copy of every order so served, and in the case
9 of a corporation such notification must be signed and acknowledged by a person or officer duly
10 authorized by the corporation to admit such service. Within a time specified in the order of the
11 commission every person and corporation upon whom it is served must if so required in the order
12 notify the commission in like manner whether the terms of the order are accepted and will be
13 obeyed.

3.] Every order or decision of the commission shall of its own force take effect and
15 become operative thirty days after the service thereof, except as otherwise provided, and shall

16 continue in force either for a period which may be designated therein or until changed or
17 abrogated by the commission, unless such order be unauthorized by this law or any other law or
18 be in violation of a provision of the constitution of the state or of the United States.

386.510. **With respect to commission orders or decisions issued on and after the**
2 **effective date of this section**, within thirty days after the application for a rehearing is denied,
3 or, if the application is granted, then within thirty days after the rendition of the decision on
4 rehearing, the applicant may [apply to] **file a notice of appeal with** the [circuit court of]
5 **commission, which shall also be served on the parties to the commission proceeding in**
6 **accordance with section 386.515, and which shall also be filed with the appellate court with**
7 **the territorial jurisdiction over** the county where the hearing was held or in which the
8 commission has its principal office [for a writ of certiorari or review (herein referred to as a writ
9 of review)] for the purpose of having the reasonableness or lawfulness of the original order or
10 decision or the order or decision on rehearing inquired into or determined. [The writ shall be
11 made returnable not later than thirty days after the date of the issuance thereof, and shall direct
12 the commission to certify its record in the case to the court. On the return day the cause shall be
13 heard by the circuit court, unless for a good cause shown the same be continued.] **Except with**
14 **respect to a stay or suspension pursuant to subsection 1 of section 386.520**, no new or
15 additional evidence may be introduced [upon the hearing] in the [circuit] **appellate** court but the
16 cause shall be heard by the court without the intervention of a jury on the evidence and exhibits
17 introduced before the commission and certified to by it. **The notice of appeal shall include the**
18 **appellant's application for rehearing, a copy of the reconciliation required by subsection**
19 **4 of section 386.420, a concise statement of the issues being appealed, a full and complete**
20 **list of the parties to the commission proceeding, and any other information specified by the**
21 **rules of the court. Unless otherwise ordered by the court of appeals, the commission shall,**
22 **within thirty days of the filing of the notice of appeal, certify its record in the case to the**
23 **court of appeals.** The commission and each party to the action or proceeding before the
24 commission shall have the right to [appear] **intervene and participate fully** in the review
25 proceedings. Upon the [hearing the circuit] **submission of the case to the court of appeals, the**
26 **court of appeals** shall [enter judgment] **render its opinion** either affirming or setting aside, **in**
27 **whole or in part**, the order **or decision** of the commission under review. In case the order **or**
28 **decision** is reversed by reason of the commission failing to receive testimony properly proffered,
29 the court shall remand the cause to the commission, with instructions to receive the testimony
30 so proffered and rejected, and enter a new order **or render a new decision** based upon the
31 evidence theretofore taken, and such as it is directed to receive. The court may, in its discretion,
32 remand any cause which is reversed by it to the commission for further action. No court in this
33 state, except [the circuit courts to the extent herein specified and] the supreme court or the court

34 of appeals [on appeal], shall have jurisdiction **or authority** to review, reverse, correct or annul
35 any order or decision of the commission or to suspend or delay the executing or operation
36 thereof, or to enjoin, restrain or interfere with the commission in the performance of its official
37 duties. The [circuit] **appellate** courts of this state shall always be deemed open for the trial of
38 suits brought to review the orders and decisions of the commission as provided in the public
39 service commission law and the same shall **where necessary** be tried and determined as suits
40 in equity.

386.515. [Prior to August 28, 2001, in proceedings before the Missouri public service
2 commission, consistent with the decision of the supreme court of Missouri in State ex rel.
3 Anderson Motor Service Co., Inc. v. Public Service Commission, 97 S.W.2d 116 (Mo. banc
4 1936) the review procedure provided for in section 386.510 is exclusive to any other procedure.]
5 **With respect to commission orders or decisions issued on and after the effective date of this**
6 **section**, an application for rehearing is required to be served on all parties and is a prerequisite
7 to the filing of an [application for writ of review] **appeal under section 386.510**. The
8 application for rehearing puts the parties to the proceeding before the commission on notice that
9 [a writ of review] **an appeal** can follow and any such review **under the appeal** may proceed
10 [without formal notification or summons to] **provided that a copy of the notice of appeal is**
11 **served on** said parties. **With respect to commission orders or decisions issued** on and after
12 [August 28, 2001] **the effective date of this section**, the review procedure provided for in
13 section 386.510 continues to be exclusive except that a copy of [any such writ of review] **the**
14 **notice of appeal required by section 386.510** shall be [provided to] **served on** each party to the
15 proceeding before the commission[, or his or her attorney of record, by hand delivery or by
16 registered mail, and proof of such delivery or mailing shall be filed in the case as provided by
17 subsection 2 of section 536.110] **by the appellant according to the rules established by the**
18 **court in which the appeal is filed.**

386.520. 1. The pendency of [a writ of review] **an appeal under section 386.510** shall
2 not of itself stay or suspend the operation of the order or decision of the commission, but [during
3 the pendency of such writ, the circuit court in its discretion may stay or suspend, in whole or in
4 part, the operation of the commission's order or decision. No order so staying or suspending an
5 order or decision of the commission shall be made by any circuit court otherwise than on three
6 days' notice and after hearing, and if the order or decision of the commission is suspended the
7 same shall contain a specific finding based upon evidence submitted to the court and identified
8 by reference thereto, that great or irreparable damage would otherwise result to the petitioner and
9 specifying the nature of the damage. In case the order or decision of the commission is stayed
10 or suspended, the order or judgment of the court shall not become effective until a suspending
11 bond shall first have been executed and filed with, and approved by, the circuit court, payable

12 to the state of Missouri, and sufficient in amount and security to secure the prompt payment, by
13 the party petitioning for the review, of all damages caused by the delay in the enforcement of the
14 order or decision of the commission, and of all moneys which any person or corporation may be
15 compelled to pay, pending the review proceedings, for transportation, transmission, product,
16 commodity or service in excess of the charges fixed by the order or decision of the commission,
17 in case such order or decision is sustained.

18 2. The circuit court, in case it stays or suspends the order or decision of the commission
19 in any manner affecting rates, fares, tolls, rentals, charges or classifications, shall also by order
20 direct the corporation, person or public utility affected to pay into court, from time to time, there
21 to be impounded until the final decision of the case, or into some bank or trust company paying
22 interest on deposits, under such conditions as the court may prescribe, all sums of money which
23 it may collect from any corporation or person in excess of the sum such corporation or person
24 would have been compelled to pay if the order or decision of the commission had not been stayed
25 or suspended.

26 3. In case any circuit court stays or suspends any order or decision of the commission
27 lowering any rate, fare, toll, rental, charge or classification, upon the execution and approval of
28 said suspending bond, shall forthwith require the corporation, person or public utility affected,
29 under penalty of the immediate enforcement of the order or decision of the commission, pending
30 the review and notwithstanding the suspending order, to keep such accounts, verified by oath,
31 as may, in the judgment of the court, suffice to show the amounts being charged or received by
32 such corporation, person or public utility, pending the review, in excess of the charges allowed
33 by the order or decision of the commission, together with the names and addresses of the
34 corporations and persons to whom overcharges will be refundable in case the charges made by
35 the corporation, person or public utility, pending the review, be not sustained by the circuit court;
36 provided, that street railroad corporations shall not be required to keep a record of the names and
37 addresses of such persons paying such overcharge of fares, but such street railroad corporations
38 shall give to such persons printed receipts showing such overcharges of fares, the form of such
39 printed receipts to be approved by the commission.

40 4. The court may, from time to time, require said party petitioning for a review to give
41 additional security on, or to increase, the said suspending bond, whenever in the opinion of the
42 court the same may be necessary to secure the prompt payment of said damages or said
43 overcharges.

44 5. Upon the decision of the circuit court, all moneys which the corporation, person or
45 public utility may have collected pending the appeal, in excess of those authorized by such
46 decision, together with interest, in case the court ordered the deposit of such moneys in a bank
47 or trust company, shall be promptly paid to the corporations or persons entitled thereto, in such

48 manner and through such methods of distribution as may be prescribed by the court, unless an
49 appeal be granted such corporation, person or public utility, as herein provided] **with respect to**
50 **commission orders or decisions issued on and after the effective date of this section that do**
51 **not involve the establishment of new rates and charges for a public utility, the appellate**
52 **court may in its discretion, or upon the recommendation of a special master appointed for**
53 **such purpose, and after the posting of an appropriate appeal bond, stay or suspend the**
54 **operation of the order or decision of the commission, in whole or in part, if in its discretion**
55 **it determines that great or irreparable damage would otherwise result to the appellant.**

56 **2. With respect to orders or decisions issued on and after the effective date of this**
57 **section that involve the establishment of new rates or charges, there shall be no stay or**
58 **suspension of the commission's order or decision, however:**

59 **(1) In the event a final and unappealable judicial decision determines that a**
60 **commission order or decision unlawfully or unreasonably decided an issue or issues in a**
61 **manner affecting rates, then the court shall instruct the commission to provide temporary**
62 **rate adjustments and, if new rates and charges have not been approved by the commission**
63 **before the judicial decision becomes final and unappealable, prospective rate adjustments.**
64 **Such adjustments shall be calculated based on the record evidence in the proceeding under**
65 **review and the information contained in the reconciliation and billing determinants**
66 **provided by the commission under subsection 4 of section 386.420 and in accordance with**
67 **the procedures set forth in subdivisions (2) to (5) of this subsection;**

68 **(2) If the effect of the unlawful or unreasonable commission decision issued on or**
69 **after the effective date of this section was to increase the public utility's rates and charges**
70 **in excess of what the public utility would have received had the commission not erred or**
71 **to decrease the public utility's rates and charges in a lesser amount than would have**
72 **occurred had the commission not erred, then the commission shall be instructed on remand**
73 **to approve temporary rate adjustments designed to flow through to the public utility's then**
74 **existing customers the excess amounts that were collected by the utility plus interest at the**
75 **higher of the prime bank lending rate minus two percentage points or zero. Such amounts**
76 **shall be calculated for the period commencing with the date the rate increase or decrease**
77 **took effect until the earlier of the date when new rates and charges consistent with the**
78 **court's opinion became effective or when new rates or charges otherwise approved by the**
79 **commission as a result of a general rate case filing or complaint became effective. Such**
80 **amounts shall then be reflected as a rate adjustment over a like period of time. The**
81 **commission shall issue its order on remand within sixty days unless the commission**
82 **determines that additional time is necessary to properly calculate the temporary or any**

83 prospective rate adjustment, in which case the commission shall issue its order within one
84 hundred and twenty days;

85 (3) If the effect of the unlawful or unreasonable commission decision was to
86 increase the public utility's rates and charges by a lesser amount than what the public
87 utility would have received had the commission not erred or to decrease the public utility's
88 rates and charges in a greater amount than would have occurred had the commission not
89 erred, then the commission shall be instructed on remand to approve temporary rate
90 adjustments designed to allow the public utility to recover from its then existing customers
91 the amounts it should have collected plus interest at the higher of the prime bank lending
92 rate minus two percentage points or zero. Such amounts shall be calculated for the period
93 commencing with the date the rate increase or decrease took effect until the earlier of the
94 date when new permanent rates and charges consistent with the court's opinion became
95 effective or when new permanent rates or charges otherwise approved by the commission
96 as a result of a general rate case filing or complaint became effective. Such amounts shall
97 then be reflected as a rate adjustment over a like period of time. The commission shall
98 issue its order on remand within sixty days unless the commission determines that
99 additional time is necessary to properly calculate the temporary or any prospective rate
100 adjustment, in which case the commission shall issue its order within one hundred and
101 twenty days;

102 (4) If the effect of the unlawful or unreasonable commission decision was to allocate
103 too much of a rate increase or too little of a rate decrease to a customer class or classes,
104 then the commission shall be instructed on remand to approve temporary rate adjustments
105 for each customer class as necessary to ensure that each customer class is charged the
106 amounts that would have been charged had the commission not erred. Such amounts shall
107 be calculated for the period commencing with the date the rate increase or decrease took
108 effect until the earlier of the date when new rates and charges consistent with the court's
109 opinion became effective or when new rates or charges otherwise approved by the
110 commission as a result of a general rate case filing or complaint became effective. Such
111 amounts shall then be reflected as a rate adjustment over a like period of time. The
112 commission shall issue its order on remand within sixty days unless the commission
113 determines that additional time is necessary to properly calculate the temporary or any
114 prospective rate adjustment, in which case the commission shall issue its order within one
115 hundred and twenty days;

116 (5) On and after the effective date of this section, no action affecting the public
117 utility's collection of rates and charges shall be taken in cases where the court cannot make
118 a determination on the merits because the commission failed to include adequate findings

119 **of fact to support the commission's decision or failed to receive evidence properly**
120 **proffered, provided that the commission shall provide such findings of fact or otherwise**
121 **issue a new order within ninety days of the date of the court's mandate. If such new order**
122 **is appealed, the period for measuring amounts subject to temporary rate adjustments**
123 **process set forth in subdivisions (1) to (4) of this subsection shall commence beginning with**
124 **the date the rate increase or decrease took effect.**

386.530. All actions or proceedings under this or any other chapter, and all actions and
2 proceedings commenced or prosecuted by order of the commission, and all actions and
3 proceedings to which the commission, the public counsel or the state may be parties, and in
4 which any question arises under this or any other chapter, or under or concerning any order or
5 decision or action of the commission, shall be preferred over all other civil causes except election
6 contests in all the [circuit] **appellate** courts of the state of Missouri, and shall be heard and
7 determined in preference to all other civil business pending therein except election contests,
8 irrespective of position on the calendar. The same preference shall be granted upon application
9 of the public counsel or the commission counsel in any action or proceeding in which either or
10 both may be allowed to intervene.

386.540. 1. The commission and any party, including the public counsel, who has
2 participated in the [commission] **court of appeals** proceeding [which produced the order or
3 decision may, after the entry of judgment in the circuit court in any action in review, prosecute
4 an appeal to a court having appellate jurisdiction in this state. Such appeal shall be prosecuted
5 as appeals from judgment of the circuit court in civil cases except as otherwise provided in this
6 chapter] **and is aggrieved by the opinion of the court may seek rehearing or transfer to the**
7 **Missouri supreme court under rules established by the court.** The original transcript of the
8 record and testimony and exhibits, certified to by the commission and filed [in the circuit court
9 in any action to review an order or decision of the commission, together with a transcript of the
10 proceedings in the circuit court,] **with the court of appeals** shall constitute the record on appeal
11 to the supreme court [or any court of appeals].

2. Where an appeal is taken to the supreme court [or the court of appeals], the cause
13 shall, on the return of the papers to the supreme court [or court of appeals], be immediately
14 placed on the docket of the then pending term by the clerk of the court and shall be assigned and
15 brought to a hearing in the same manner as other causes on the then pending term docket, but
16 shall have precedence over all civil causes of a different nature pending in the court. [No appeal
17 shall be effective when taken by a corporation, person or public utility unless a cost bond of
18 appeal in the sum of five hundred dollars shall be filed within ten days after the entry of
19 judgment in the circuit court appealed from.]

20 3. [The circuit court may in its discretion suspend its judgment pending the hearing in
21 the supreme court or court of appeals on appeal, upon the filing of a bond by the corporation,
22 person or public utility with good and sufficient security conditioned as provided for bonds upon
23 actions for review and by further complying with all terms and conditions of this law for the
24 suspension of any order or decision of the commission pending the hearing or review in the
25 circuit court. This bond shall be in addition to the cost bond heretofore provided in this section.

26 4.] The general laws relating to appeals to the supreme court and the court of appeals in
27 this state shall, so far as applicable and not in conflict with the provisions of this chapter, apply
28 to appeals taken under the provisions of this chapter.

393.015. 1. Notwithstanding any other provision of law to the contrary, any sewer
2 corporation, municipality or sewer district established under the provisions of chapter 249 or
3 250, or sections 204.250 to 204.470, or any sewer district created and organized pursuant to
4 constitutional authority, may contract with any water corporation to terminate water services to
5 any customer premises for nonpayment of a sewer bill. No such termination of water service
6 may occur until thirty days after the sewer corporation, municipality or statutory sewer district
7 or sewer district created and organized pursuant to constitutional authority sends a written notice
8 to the customer [by certified mail], except that if the water corporation is performing a combined
9 water and sewer billing service for the sewer corporation, municipality or sewer district, no
10 additional notice or any additional waiting period shall be required other than the notice and
11 waiting period already used by the water corporation to disconnect water service for nonpayment
12 of the water bill. Acting pursuant to a contract, the water corporation shall discontinue water
13 service until such time as the sewer charges and all related costs of termination and
14 reestablishment of sewer and water services are paid by the customer.

15 2. A water corporation acting pursuant to a contract with a sewer corporation,
16 municipality or sewer district as provided in subsection 1 of this section shall not be liable for
17 damages related to termination of water services unless such damage is caused by the negligence
18 of such water corporation, in which case the water corporation shall be indemnified by the sewer
19 corporation, municipality or sewer district. Unless otherwise specified in the contract, all costs
20 related to the termination and reestablishment of services by the water corporation shall be
21 reimbursed by the sewer corporation, municipality, sewer district or sewer district created and
22 organized pursuant to constitutional authority.

**393.152. 1. A public utility regulated under this chapter shall not require a deposit
2 or guarantee as a condition of continued residential service to any existing customer who
3 has been delinquent in paying his or her utility bill at least five times in twelve consecutive
4 months if:**

5 **(1) Such customer has consistently made a payment for each month during the**
6 **twelve consecutive months, provided that each payment is made by the delinquent date;**
7 **and**

8 **(2) Each payment made in subdivision (1) of this subsection is at least seventy-five**
9 **dollars or twenty-five percent of the total outstanding balance, provided that the total**
10 **outstanding balance is three hundred dollars or less.**

11 **2. This section shall not apply to any customer whose total outstanding balance**
12 **exceeds three hundred dollars or to any customer making payments under a pay plan**
13 **previously arranged with the utility.**

393.275. 1. The commission shall notify the governing body of each city or county
2 imposing a business license tax pursuant to section 66.300, 92.045, 94.110, 94.270 or 94.360,
3 RSMo, or a similar tax adopted pursuant to charter provisions in any constitutional charter city
4 with a population of at least three hundred fifty thousand inhabitants which is located in more
5 than one county, on gross receipts of any gas corporation, electric corporation, water corporation
6 or sewer corporation of any tariff increases authorized for such firm doing business in that city
7 or county if the approved increase exceeds seven percent. The commission shall include with
8 such notice to any city or county the percentage increase approved for the utility, together with
9 an estimate of the annual increase in gross receipts resulting from the tariff increase on customers
10 residing in that city or county. The provisions of this subsection shall not apply to rate
11 adjustments in the purchase price of natural gas which are approved by the commission.

12 2. The governing body of each city or county notified of a tariff increase as provided in
13 subsection 1 of this section shall reduce the tax rate of its business license tax on the gross
14 receipts of utility corporations. Within sixty days of the effective date of the tariff increase, the
15 tax rate shall be reduced to the extent necessary so that revenue for the ensuing twelve months
16 will be approximately equal to the revenue received during the preceding twelve months plus a
17 growth factor. The growth factor shall be equal to the average of the additional revenue received
18 in each of the preceding three years. However, a city or county may maintain the tax rate of its
19 business license tax on the gross receipts of utility corporations without reduction if an ordinance
20 to maintain the tax rate is enacted by the governing body of the city or an order to maintain the
21 tax rate is issued by the governing body of the county after September 28, 1985. The provisions
22 of this subsection shall not apply to rate adjustments in the purchase price of natural gas which
23 are approved by the commission **and such purchased gas adjustment rates shall include the**
24 **gas cost portion of net write-offs incurred by the gas corporation in providing service to**
25 **system sales customers upon the filing and approval of new rate schedules applicable to**
26 **such customers. Such rate schedules shall be designed to simultaneously decrease the gas**
27 **corporation's base rates and increase its purchased gas adjustment rates by like amounts**

28 so as to reasonably ensure that the gas cost portion of the net write-offs applicable to such
 29 customers, as such portion is determined by the commission, is only being recovered once
 30 through the gas corporation's purchased gas adjustment rates. Increases and decreases
 31 in the gas cost portion of net write-offs shall thereafter be reflected in the gas corporation's
 32 purchased gas adjustment rates under tariff provisions approved by the commission
 33 provided, however, that such tariff provisions shall:

34 (1) Limit increases or decreases in the gas cost portion of net write-offs as reflected
 35 in purchased gas adjustment rates to once each year;

36 (2) Require a true-up of the gas cost portion of net write-offs as reflected in
 37 purchased gas adjustment rates once each year; and

38 (3) Require commission review of the gas cost portion of net write-offs as reflected
 39 in purchased gas adjustment rates once each year to ensure that the gas corporation is
 40 prudently pursuing collection of amounts owed by its customers.

393.1000. As used in sections 393.1000 to 393.1006, the following terms mean:

2 (1) "Appropriate pretax revenues", the revenues necessary to produce net operating
 3 income equal to:

4 (a) The water corporation's weighted cost of capital multiplied by the net original cost
 5 of eligible infrastructure system replacements, including recognition of accumulated deferred
 6 income taxes and accumulated depreciation associated with eligible infrastructure system
 7 replacements which are included in a currently effective ISRS; and

8 (b) Recover state, federal, and local income or excise taxes applicable to such income;
 9 and

10 (c) Recover all other ISRS costs;

11 (2) "Commission", the Missouri public service commission;

12 (3) "Eligible infrastructure system replacements"[,] :

13 (a) Water utility plant projects that:

14 [(a)] a. Replace or extend the useful life of existing infrastructure;

15 [(b)] b. Are in service and used and useful;

16 [(c)] c. Do not increase revenues by directly connecting the infrastructure replacement
 17 to new customers; and

18 [(d)] d. Were not included in the water corporation's rate base in its most recent general
 19 rate case; and

20 (b) Energy efficiency projects that:

21 a. Are in service and used and useful;

22 b. Do not increase revenues by directly connecting the infrastructure replacements
 23 to new customers; and

24 **c. Were not included in the water corporation's rate base in its most recent general**
 25 **rate case;**

26 (4) "Energy efficiency", measures that reduce the amount of energy required to
 27 achieve a given end result;

28 (5) "ISRS", infrastructure system replacement surcharge;

29 [(5)] (6) "ISRS costs", depreciation expenses and property taxes that will be due within
 30 twelve months of the ISRS filing;

31 [(6)] (7) "ISRS revenues", revenues produced through an ISRS, exclusive of revenues
 32 from all other rates and charges;

33 [(7)] (8) "Water corporation", every corporation, company, association, joint stock
 34 company or association, partnership, and person, their lessees, trustees, or receivers appointed
 35 by any court whatsoever, owning, operating, controlling, or managing any plant or property, dam
 36 or water supply, canal, or power station, distributing or selling for distribution, or selling or
 37 supplying for gain any water [to more than ten thousand customers];

38 [(8)] (9) "Water utility plant projects" may consist only of the following:

39 (a) Mains, [and associated] valves [and] , hydrants, **service lines, and meters** installed
 40 as replacements for existing facilities that have worn out or are in deteriorated condition **or**
 41 **replaced as part of a commission order;**

42 (b) Main cleaning and relining projects; [and]

43 (c) Facilities relocations required due to construction or improvement of a highway,
 44 road, street, public way, or other public work by or on behalf of the United States, this state, a
 45 political subdivision of this state, or another entity having the power of eminent domain provided
 46 that the costs related to such projects have not been reimbursed to the water corporation; **and**

47 **(d) Energy efficiency projects.**

393.1003. 1. Notwithstanding any provisions of chapter 386, RSMo, and this chapter
 2 to the contrary, as of August 28, [2003] **2011**, a water corporation [providing water service in
 3 a county with a charter form of government and with more than one million inhabitants] may file
 4 a petition and proposed rate schedules with the commission to establish or change ISRS rate
 5 schedules that will allow for the adjustment of the water corporation's rates and charges to
 6 provide for the recovery of costs for eligible infrastructure system replacements [made in such
 7 county with a charter form of government and with more than one million inhabitants;] ,
 8 provided that an ISRS, on an annualized basis, must produce ISRS revenues of at least one
 9 million dollars, **or ten thousand dollars for a small water corporation as defined in section**
 10 **393.146**, but not in excess of ten percent of the water corporation's base revenue level approved
 11 by the commission in the water corporation's most recent general rate proceeding. An ISRS and
 12 any future changes thereto shall be calculated and implemented in accordance with the provisions

13 of sections 393.1000 to 393.1006. ISRS revenues shall be subject to refund based upon a finding
14 and order of the commission, to the extent provided in subsections 5 and 8 of section 393.1006.

15 2. The commission shall not approve an ISRS for a water corporation [in a county with
16 a charter form of government and with more than one million inhabitants] that has not had a
17 general rate proceeding decided or dismissed by issuance of a commission order within the past
18 three years, unless the water corporation has filed for or is the subject of a new general rate
19 proceeding.

20 3. In no event shall a water corporation collect an ISRS for a period exceeding three
21 years unless the water corporation has filed for or is the subject of a new general rate proceeding;
22 provided that the ISRS may be collected until the effective date of new rate schedules established
23 as a result of the new general rate proceeding, or until the subject general rate proceeding is
24 otherwise decided or dismissed by issuance of a commission order without new rates being
25 established.

414.530. 1. The director shall conduct a referendum as soon as possible among
2 producers and Missouri retail marketers of propane to authorize the creation of the "Missouri
3 Propane Education and Research Council" and the levying of an assessment on odorized
4 propane. Upon approval of those persons representing two-thirds of the total gallonage of
5 odorized propane voted in the retail marketer class and two-thirds of all propane voted in the
6 producer class, meaning propane sold or produced in the previous calendar year or other
7 representative period, the director shall issue an order establishing the council and call for
8 nominations to the council from qualified industry organizations. All persons voting in the
9 referendum shall certify to the director the number of gallons represented by their vote.

10 2. [On the director's own initiative,] Upon petition of the council or of producers and
11 marketers representing thirty-five percent of the gallons in each class, the director shall hold a
12 referendum to determine whether the industry favors termination or suspension of the order. The
13 termination or suspension shall not take effect unless it is approved by those persons representing
14 more than one-half of the total gallonage of odorized propane in the marketer class and one-half
15 of all propane in the producer class.

16 3. The director may require such reports or documentation as is necessary to document
17 the referendum process [and the nomination process for members of the council] and shall
18 protect the confidentiality of all such documentation provided by industry members. Information
19 regarding propane produced or marketed by persons voting shall be a closed record.

414.560. 1. Upon issuance of an order by the director establishing the Missouri propane
2 education and research council, the director shall select all members of the council from a list
3 of nominees submitted by qualified industry organizations. **Subsequent appointments shall**

4 **be selected by the council following a public nomination process.** Vacancies in unfinished
5 terms of council members may be filled by the council[, subject to approval of the director].

6 2. In making nominations and appointments to the council, the qualified industry
7 organizations [and the director] shall give due regard to selecting a council that is representative
8 of the industry, and the geographic regions of the state.

9 3. The council shall consist of fifteen members, with nine members representing retail
10 marketers of propane; three members representing wholesalers or resellers of propane; two
11 members representing manufacturers and distributors of gas use equipment, wholesalers or
12 resellers, or transporters; and one public member. Other than the public member, council
13 members shall be full-time employees or owners of businesses in the industry.

14 4. Council members shall receive no compensation for their services, but shall be
15 reimbursed for reasonable expenses incurred in the performance of their duties.

16 5. Council members shall serve terms of three years; except that of the initial members
17 appointed, five shall be appointed for terms of one year, five shall be appointed for terms of two
18 years and five shall be appointed for terms of three years. Members may be appointed to a
19 maximum of two consecutive full terms. Members filling unexpired terms will not have any
20 partial term of service count against the two-term limitation. Former members of the council
21 may be reappointed to the council if they have not been members for a period of one year.

22 6. The council shall select from among its members a chairman and other officers as
23 necessary, establish committees and subcommittees of the council, and adopt rules and bylaws
24 for the conduct of business. The council may establish advisory committees of persons other
25 than council members.

26 7. The council may employ a president to serve as chief executive officer and such other
27 employees as it deems necessary. The council may enter into contracts with, use facilities and
28 equipment of, or employ personnel of a qualified industry organization in carrying out its
29 responsibilities under sections 414.500 to 414.590. It shall determine the compensation and
30 duties of each, and protect the handling of council funds through fidelity bonds.

31 8. At **least thirty days prior to** the beginning of each fiscal period, the council shall
32 prepare and submit [to the director] **for public comment** a budget plan including the probable
33 costs of all programs, projects and contracts and a recommended rate of assessment sufficient
34 to cover such costs. [The director shall approve or recommend changes to the budget after an
35 opportunity for public comment.] **The council shall approve or modify the budget following**
36 **the public comment period.**

37 9. The council shall develop programs and projects and enter into contracts or
38 agreements for implementing the policy of sections 414.500 to 414.590, including programs of
39 research, development, education, and marketing, and for the payment of the costs thereof with

40 funds collected pursuant to sections 414.500 to 414.590. The council shall coordinate its
41 activities with industry trade associations to provide efficient delivery of services and to avoid
42 unnecessary duplication of activities.

43 10. The council shall keep minutes, books, **and** records that clearly reflect all of the acts
44 and transactions of the council and regularly report such information to the director[, along with
45 such other information as the director may require]. The books of the council shall be audited
46 by a certified public accountant at least once each fiscal year and at such other times as the
47 council may designate. Copies of such audit shall be provided to the director, all members of
48 the council, all qualified industry organizations, and to other members of the industry upon
49 request. [The director shall receive notice of meetings and may require reports on the activities
50 of the council, as well as reports on compliance, violations and complaints regarding the
51 implementation of sections 414.500 to 414.590.]

52 11. From assessments collected, the council shall annually reimburse the director for
53 costs incurred in holding the referendum establishing the council[, making appointments to the
54 council,] and other expenses directly related to the council.

414.570. 1. The council shall set the initial assessment at no greater than one-tenth of
2 one cent per gallon. Thereafter, annual assessments shall be sufficient to cover the costs of the
3 plans and programs developed by the council and approved [by the director] **following public**
4 **comment**. The assessment shall not be greater than one-half cent per gallon of odorized
5 propane. The assessment may not be raised by more than one-tenth of one cent per gallon
6 annually.

7 2. The owner of propane immediately prior to odorization in this state or the owner at
8 the time of import into this state of odorized propane shall be responsible for the payment of the
9 assessment on the volume of propane at the time of import or odorization, whichever is later.
10 Assessments shall be remitted to the council on a monthly basis by the twenty-fifth of the month
11 following the month of collection. Nonodorized propane shall not be subject to assessment until
12 odorized.

13 3. The [director] **council** may [by regulation, with the concurrence of the council,]
14 establish an alternative means [for the council] to collect the assessment if another means is
15 found to be more efficient and effective. The [director] **council** may [by regulation] establish
16 a late payment charge and rate of interest **not to exceed the legal rate for judgments** to be
17 imposed on any person who fails to remit to the council any amount due under sections 414.500
18 to 414.590.

19 4. Pending disbursement pursuant to a program, plan or project, the council may invest
20 funds collected through assessments and any other funds received by the council only in
21 obligations of the United States or any agency thereof, in general obligations of any state or any

22 political subdivision thereof, in any interest-bearing account or certificate of deposit of a bank
23 that is a member of the Federal Reserve System, or in obligations fully guaranteed as to principal
24 and interest by the United States.

25 [5. The National Propane Education and Research Council, in conjunction with the
26 United States Secretary of Energy may, by regulation, establish a program coordinating the
27 operation of its council with the council established in section 414.530. This may include an
28 assessment rebate, if adopted, of an amount up to twenty-five percent of the National Propane
29 Education and Research Council assessment collected on Missouri distributed odorized propane
30 as presented and described in section nine of the federal Propane Education and Research Act
31 of 1992. Should the National Propane Education and Research Council, as part of the federal
32 Propane Education and Research Act of 1992, establish such an assessment rebate on fees
33 collected by such council, then all funds from such federal assessment rebate shall be the
34 property of the Missouri council as established by section 414.530, and the use of such funds
35 shall be determined by the Missouri council for the purposes as intended and presented in
36 sections 414.500 to 414.590.]

660.122. Funds appropriated under the authority of sections 660.100 to 660.136 may be
2 used to pay the expenses of reconnecting or maintaining service to households that have had
3 their primary or secondary heating or cooling source disconnected or service discontinued
4 because of their failure to pay their bill. Any qualified household or other household which has
5 as its head a person who is elderly or disabled, as defined in section 660.100, shall be eligible
6 for assistance under this section if the income for the household is no more than one hundred
7 fifty percent of the current federal poverty level or sixty percent of the state median income and
8 if moneys have been appropriated by the general assembly to the utilicare stabilization fund
9 established pursuant to section 660.136. Payments under this section shall be made directly to
10 the primary or secondary heating or cooling source supplier. Any primary or secondary heating
11 or cooling source supplier subject to the supervision and regulation of the public service
12 commission shall, at any time during the period of the cold weather rule specified in the cold
13 weather rule as established and as amended by the public service commission, reconnect and
14 provide services to each household eligible for assistance under this section in compliance with
15 the terms of such cold weather rule, **provided that such suppliers shall permit customers who**
16 **have not yet been disconnected and who incurred an arrearage during the cold weather**
17 **rule period to retain service by paying during each of the three months following the cold**
18 **weather rule period an amount equal to one-third of the customer's arrearage, plus the**
19 **customer's current bill.** All home energy suppliers receiving funds under this section shall
20 provide service to eligible households consistent with their contractual agreements with the
21 department of social services **and sections 660.100 to 660.136.**

Section B. Because of the immediate need to provide meaningful and equitable relief to
2 parties who may successfully pursue review of Missouri Public Service Commission orders or
3 decisions, the repeal and reenactment of sections 386.420, 386.510, 386.515, 386.520, 386.530,
4 and 386.540 of section A of this act is deemed necessary for the immediate preservation of the
5 public health, welfare, peace and safety, and is hereby declared to be an emergency act within
6 the meaning of the constitution, and the repeal and reenactment of sections 386.420, 386.510,
7 386.515, 386.520, 386.530, and 386.540 of section A of this act shall be in full force and effect
8 upon its passage and approval.

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