

SECOND REGULAR SESSION

HOUSE BILL NO. 1316

96TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES RIDDLE (Sponsor), POLLOCK, CRAWFORD, KOENIG, SCHAD, ENTLICHER, CAUTHORN, KORMAN, HOUGHTON, MEADOWS, KELLY (24), LAIR, DAY, GATSCHENBERGER, DAVIS, FISHER, DUGGER, SMITH (71), RUZICKA, McGHEE, BERNSKOETTER, REDMON, FUNDERBURK, SCHARNHORST, JONES (89), SHUMAKE, CONWAY (14), SCHATZ, BARNES, MOLENDORP, GOSEN, WHITE, STREAM, THOMSON, ASBURY, FITZWATER, LOEHNER, WETER, CROSS, NANCE, SATER, COX, CURTMAN, HOSKINS, FRANKLIN, WYATT, LAMPE, HUMMEL, PIERSON, MONTECILLO, LANT, DIEHL, CIERPIOT, SCHOELLER, DENISON, ROWLAND, BURLISON, FREDERICK, KELLEY (126), LONG, LASATER, WELLS, BAHR, BROWN (85), GRISAMORE, FUHR, CARTER, PACE, REIBOLDT, SIFTON, ATKINS, COLONA, JOHNSON, McCAHERTY, McGEORGHEGAN, SCHIEFFER, WEBB, McDONALD, WALTON GRAY, MAY, RIZZO, SPRENG, DIECKHAUS AND HAEFNER (Co-sponsors).

4791H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 386.370 and 393.135, 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Section A. Sections 386.370 and 393.135, RSMo, are repealed and two new sections
2 enacted in lieu thereof, to be known as sections 386.370 and 393.135, to read as follows:

386.370. 1. **Prior to the beginning of each fiscal year**, the commission shall[, prior
2 to the beginning of each fiscal year beginning with the fiscal year commencing on July 1, 1947,]
3 make an estimate of the expenses to be incurred by it during such fiscal year reasonably
4 attributable to the regulation of public utilities as provided in chapters 386, 392, and 393. **Prior**
5 **to the beginning of each fiscal year, the public counsel shall make an estimate of the**
6 **expenses to be incurred by him or her during such fiscal year reasonably attributable to**
7 **his or her responsibilities under sections 387.700 and 386.710. The commission and the**
8 **public counsel** shall also separately estimate the amount of such expenses directly attributable
9 to [such regulation of] each of the following groups of public utilities: Electrical corporations,
10 gas corporations, water corporations, heating companies [and telephone corporations, telegraph

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.

11 corporations], **telecommunications companies**, sewer corporations, and any other public utility
12 as defined in section 386.020, as well as the amount of such expenses not directly attributable
13 to any such group.

14 2. The commission **and the public counsel** shall **each** allocate to each such group of
15 public utilities the **total** estimated expenses directly attributable to [the regulation of] **their**
16 **respective activities for each** such group and an amount equal to such proportion of the
17 estimated expenses not directly attributable to any group as the gross intrastate operating
18 revenues of such group during the preceding calendar year bears to the total gross intrastate
19 operating revenues of all public utilities subject to the jurisdiction of the commission, as
20 aforesaid, during such calendar year. The commission shall then assess the amount so allocated
21 **by the commission and the public counsel** to each group of public utilities, subject to reduction
22 as herein provided, to the public utilities in such group in proportion to their respective gross
23 intrastate operating revenues during the preceding calendar year, except that:

24 (1) The total amount so assessed to all such public utilities **that is attributable to the**
25 **commission's regulation of such utilities** shall not exceed [one-fourth] **twenty-two**
26 **hundredths** of one percent of the total gross intrastate operating revenues of all utilities subject
27 to the jurisdiction of the commission; **and**

28 (2) **The total amount so assessed to all such public utilities that is attributable to the**
29 **public counsel's responsibilities under sections 386.700 and 386.710 shall not exceed two**
30 **hundredths of one percent of the total gross intrastate operating revenues of all utilities**
31 **subject to the jurisdiction of the commission, and the amount allocated to**
32 **telecommunications companies shall not exceed three percent of the total estimated**
33 **expenses directly attributable to the public counsel's responsibilities.**

34

35 **If any electrical corporation obtains a combined license granted by the United States**
36 **Nuclear Regulatory Commission or a successor organization then during the fiscal year**
37 **immediately following the year in which the combined license was granted, and for each**
38 **fiscal year thereafter, the total amount assessed under subdivision (1) of this subsection**
39 **shall increase to an amount not to exceed twenty-three hundredths of one percent of the**
40 **total gross intrastate operating revenues of all utilities subject to the jurisdiction of the**
41 **commission, and the total amount assessed under subdivision (2) of this subsection shall**
42 **increase to an amount not to exceed three hundredths of one percent of the total gross**
43 **intrastate operating revenues of all utilities subject to the jurisdiction of the commission.**
44 **Nothing in this section shall authorize the commission to determine how the public counsel**
45 **allocates the estimated expenses directly attributable to his or her responsibilities under**
46 **sections 386.700 and 386.710 with respect to the public utilities described in subsection 1**

47 **of this section or how the assessment imposed under this section is spent by the public**
48 **counsel.**

49 3. The commission shall render a statement of [such assessment] **the assessments made**
50 **under subsections 1 and 2 of this section** to each such public utility on or before July first and
51 the [amount] **amounts** so assessed to each such public utility shall be paid by it to the director
52 of revenue in full on or before July fifteenth next following the rendition of such statement,
53 except that any such public utility may at its election pay such assessment in four equal
54 installments not later than the following dates next following the rendition of said statement, to
55 wit: July fifteenth, October fifteenth, January fifteenth and April fifteenth. The director of
56 revenue shall remit such payments to the state treasurer.

57 4. The state treasurer shall **respectively** credit such payments to [a] **two special [fund]**
58 **funds**, which [is] **are** hereby created, to be known as "The Public Service Commission Fund",
59 which fund, or its successor fund created pursuant to section 33.571, shall be devoted solely to
60 the payment of expenditures actually incurred by the commission and attributable to the
61 regulation of such public utilities subject to the jurisdiction of the commission, as aforesaid, **and**
62 **"The Public Counsel Fund", which fund, or any successor fund, shall be devoted solely to**
63 **the payment of expenditures actually incurred by the public counsel and attributable to**
64 **his or her responsibilities under sections 386.700 and 386.710.** Any [amount] **amounts**
65 remaining in such special [fund] **funds** or [its] **their respective** successor [fund] **funds** at the end
66 of any fiscal year shall not revert to the general revenue fund, but shall be applicable by
67 appropriation of the general assembly to the payment of such expenditures of the commission
68 **or the public counsel** in the succeeding fiscal year and shall be applied by the commission **or**
69 **the public counsel** to the reduction of the amount to be assessed to such public utilities in such
70 succeeding fiscal year, such reduction to be allocated to each group of public utilities in
71 proportion to the respective gross intrastate operating revenues of the respective groups during
72 the preceding calendar year.

73 5. In order to enable the commission **and the public counsel** to make the allocations and
74 assessments herein provided for, each public utility subject to the jurisdiction of the commission
75 as aforesaid shall file with the commission[, within ten days after August 28, 1996, and
76 thereafter] on or before March thirty-first of each year, a statement under oath showing its gross
77 intrastate operating revenues for the preceding calendar year, and if any public utility shall fail
78 to file such statement within the time aforesaid the commission shall estimate such revenue
79 which estimate shall be binding on such public utility for the purpose of this section.

 393.135. **1.** Any charge made or demanded by an electrical corporation for service, or
2 in connection therewith, which is based on the costs of construction in progress upon any
3 existing or new facility of the electrical corporation, or any other cost associated with owning,

4 operating, maintaining, or financing any property before it is fully operational and used for
5 service, is unjust and unreasonable, and is prohibited.

6 **2. After October 1, 2012, an electrical corporation that seeks an early site permit**
7 **from the U.S. Nuclear Regulatory Commission, or a successor organization, shall, upon**
8 **commencement of the permitting process, submit monitoring reports to the commission**
9 **every six months documenting work completed, total expenditures to date, work yet to be**
10 **completed, and anticipated expenditures yet to be incurred in order to obtain the early site**
11 **permit.**

12 **3. Notwithstanding the provisions of subsection 1 of this section, an electrical**
13 **corporation that has obtained an early site permit and that has complied with subsection**
14 **2 of this section shall be entitled to recover through rates charged to ratepayers all costs**
15 **the electrical corporation has prudently incurred, from the first dollar through the cap**
16 **outlined below, to obtain the permit in a principal amount not to exceed forty-five million**
17 **dollars for such site permit. Any electrical corporation that, as part of a partnership or**
18 **other group formed for such purpose, contributes or otherwise bears any portion of the**
19 **costs incurred to obtain an early site permit shall also be entitled to recover its share of**
20 **such costs, provided the total principal amount does not exceed the cost limitation included**
21 **in this subsection. The principal amount shall be recovered through each applicable**
22 **electrical corporation's rates charged to its ratepayers ratably over a period not to exceed**
23 **twenty years. In addition to recovery of the principal amount, each applicable electrical**
24 **corporation's rates shall also include interest on the uncollected principal balance at a rate**
25 **per annum equal to the electrical corporation's commission-approved return on rate base.**
26 **Recovery shall commence with the effective date of tariffs approved by the commission in**
27 **each applicable electrical corporation's first general rate proceeding following the date on**
28 **which the early site permit is obtained.**

29 **4. If an electrical corporation has recovered from ratepayers expenditures for an**
30 **early site permit pursuant to subsection 3 of this section and then subsequently sells or**
31 **transfers some or all of its interest in the early site permit or subsequently receives**
32 **reimbursement for all or part of its costs from another source, the commission shall**
33 **prescribe how the electrical corporation shall credit the sums paid by ratepayers that are**
34 **equal to such sale, transfer, or reimbursement amounts after the proceeds from the sale,**
35 **transfer, or reimbursement are received. The commission shall also prescribe how any**
36 **profits from such sale or transfer are shared between the electrical corporation and**
37 **ratepayers. Credits made to ratepayers shall include interest on the uncredited balance**
38 **at a rate per annum equal to the electrical corporation's commission-approved short-term**
39 **borrowing rate.**

40 **5. If an electrical corporation that obtains an early site permit does not obtain a**
41 **combined license from the U.S. Nuclear Regulatory Commission, or a successor**
42 **organization, for the construction and operation of a nuclear generating facility by the time**
43 **the early site permit expires, or does not commence construction of such a facility by the**
44 **time the early site permit expires, the commission shall open a proceeding to examine**
45 **whether the electrical corporation was imprudent in not obtaining the combined license**
46 **or not commencing construction by the time the early site permit expired. If, after hearing,**
47 **the commission determines that the electrical corporation acted imprudently, the**
48 **commission shall require the electrical corporation and any other applicable electrical**
49 **corporation to credit to ratepayers the amount of revenues deemed imprudent by the**
50 **commission that each electrical corporation collected pursuant to subsection 3 of this**
51 **section. If ratepayer credits are ordered, such credits shall return to ratepayers, over a**
52 **period of not less than five nor more than ten years, the amount of revenues deemed**
53 **imprudent by the commission, including interest on the uncredited balance at a rate per**
54 **annum equal to the electrical corporation's commission-approved short-term borrowing**
55 **rate.**

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