

FIRST REGULAR SESSION

HOUSE BILL NO. 1304

98TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE BASYE.

2667H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 393.140 and 393.150, RSMo, and to enact in lieu thereof two new sections relating to rates of return on equity for corporations regulated by the public service commission, with an existing penalty provision.

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

Section A. Sections 393.140 and 393.150, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 393.140 and 393.150, to read as follows:

393.140. The commission shall:

(1) Have general supervision of all gas corporations, electrical corporations, water corporations and sewer corporations having authority under any special or general law or under any charter or franchise to lay down, erect or maintain wires, pipes, conduits, ducts or other fixtures in, over or under the streets, highways and public places of any municipality, for the purpose of furnishing or distributing water or gas or of furnishing or transmitting electricity for light, heat or power, or maintaining underground conduits or ducts for electrical conductors, or for the purpose of collecting, carrying, treating, or disposing of sewage, and all gas plants, electric plants, water systems and sewer systems owned, leased or operated by any gas corporation, electrical corporation, water corporation, or sewer corporation.

(2) Investigate and ascertain, from time to time, the quality of gas or water supplied and sewer service furnished by persons and corporations, examine or investigate the methods employed by such persons and corporations in manufacturing, distributing and supplying gas or electricity for light, heat or power and in transmitting the same, and in supplying and distributing water for any purpose whatsoever, and in furnishing a sewer system, and have power to order such reasonable improvements as will best promote the public interest, preserve the public health

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.

17 and protect those using such gas, electricity, water, or sewer system, and those employed in the
18 manufacture and distribution thereof, and have power to order reasonable improvements and
19 extensions of the works, wires, poles, pipes, lines, conduits, ducts and other reasonable devices,
20 apparatus and property of gas corporations, electrical corporations, water corporations, and sewer
21 corporations.

22 (3) Have power, by order, to fix from time to time standards for the measurement of the
23 purity or illuminating power of gas to be manufactured, distributed or sold by persons or
24 corporations for lighting, heating or power purposes, to prescribe from time to time the efficiency
25 of the electric supply system, of the current supplied and of the lamps furnished by the persons
26 or corporations generating and selling electric current, and to fix from time to time standards for
27 the measurement of the purity or pressure of water to be distributed or sold by persons or
28 corporations for any purpose whatsoever, and to fix from time to time the standards for
29 designing, constructing, operating and maintaining sewer systems of sewer corporations,
30 including sewers, sewage pumping stations, sewage treatment works, primary treatment
31 facilities, sludge digestion and disposal facilities, secondary treatment facilities, disinfection
32 facilities, and any and all facilities related thereto; provided, however, that such standards shall
33 be supplemental to and in no way set standards lesser than the minimum standards adopted by
34 the state water pollution board, and by order to require gas so manufactured, distributed or sold
35 to equal the standards so fixed by it, and to prescribe from time to time the reasonable minimum
36 and maximum pressure at which gas shall be delivered by said persons or corporations. For the
37 purpose of determining whether the gas manufactured, distributed or sold by such persons or
38 corporations for lighting, heating or power purposes conforms to the standards of illuminating
39 power, purity and pressure, and for the purpose of determining whether the efficiency of the
40 electric supply system, of the current supplied and of the lamps furnished, and for the purpose
41 of determining whether the water furnished or sold conforms to the standard of purity and
42 pressure, and for the purpose of determining whether the sewer system conforms to the standards
43 for designing, constructing, operating and maintaining sewer systems, and conforms to the orders
44 issued by the commission, the commission shall have power, of its own motion, to examine and
45 investigate the plants and methods employed in manufacturing, delivering and supplying gas,
46 electricity or water, and the collecting, carrying, treating and disposing of sewage, and shall have
47 access, through its members or persons employed and authorized by it, to make such
48 examinations and investigations to all parts of the manufacturing plants owned, used or operated
49 for the manufacture, transmission or distribution of gas or electricity by any such person or
50 corporation, and to all parts of the systems owned, used or operated for the supplying and
51 distribution of water and the collecting, carrying, treating and disposing of sewage by any such
52 person or corporation. Any employee or agent of the commission who divulges any fact or

53 information which may come to his knowledge during the course of any such inspection or
54 examination, except insofar as he may be directed by the commission, or by a court or judge
55 thereof, or authorized by law, shall be guilty of a misdemeanor.

56 (4) Have power, in its discretion, to prescribe uniform methods of keeping accounts,
57 records and books, to be observed by gas corporations, electrical corporations, water corporations
58 and sewer corporations engaged in the manufacture, sale or distribution of gas and electricity for
59 light, heat or power, or in the distribution and sale of water for any purpose whatsoever, or in the
60 collection, carriage, treatment and disposal of sewage for municipal, domestic or other necessary
61 beneficial purpose. It may also, in its discretion, prescribe, by order, forms of accounts, records
62 and memoranda to be kept by such persons and corporations. Notice of alterations by the
63 commission in the required method or form of keeping a system of accounts shall be given to
64 such persons or corporations by the commission at least six months before the same shall take
65 effect. Any other and additional forms of accounts, records and memoranda kept by such
66 corporation shall be subject to examination by the commission.

67 (5) Examine all persons and corporations under its supervision and keep informed as to
68 the methods, practices, regulations and property employed by them in the transaction of their
69 business. Whenever the commission shall be of the opinion, after a hearing had upon its own
70 motion or upon complaint, that the rates or charges or the acts or regulations of any such persons
71 or corporations are unjust, unreasonable, unjustly discriminatory or unduly preferential or in any
72 wise in violation of any provision of law, the commission shall determine and prescribe the just
73 and reasonable rates and charges thereafter to be in force for the service to be furnished,
74 notwithstanding that a higher rate or charge has heretofore been authorized by statute, and the
75 just and reasonable acts and regulations to be done and observed; and whenever the commission
76 shall be of the opinion, after a hearing had upon its own motion or upon complaints, that the
77 property, equipment or appliances of any such person or corporation are unsafe, insufficient or
78 inadequate, the commission shall determine and prescribe the safe, efficient and adequate
79 property, equipment and appliances thereafter to be used, maintained and operated for the
80 security and accommodation of the public and in compliance with the provisions of law and of
81 their franchises and charters.

82 (6) Require every person and corporation under its supervision and it shall be the duty
83 of every person and corporation to file with the commission an annual report, verified by the oath
84 of the president, treasurer, general manager or receiver, if any, thereof. The verification shall be
85 made by said official holding office at the time of the filing of said report, and if not made upon
86 the knowledge of the person verifying the same, shall set forth the sources of his information and
87 the grounds of his belief as to any matters not stated to be verified upon his knowledge. The
88 report shall show in detail the amount of its authorized capital stock and the amount thereof

89 issued and outstanding; the amount of its authorized bonded indebtedness and the amount of its
90 bonds and other forms of evidence of indebtedness issued and outstanding; its receipts and
91 expenditures during the preceding year; the amount paid as dividends upon its stock and as
92 interest upon its bonds; the names of its officers and the aggregate amount paid as salaries to
93 them and the amount paid as wages to its employees; the location of its plant or plants and
94 system, with a full description of its property and franchises, stating in detail how each franchise
95 stated to be owned was acquired; and such other facts pertaining to the operation and
96 maintenance of the plant and system, and the affairs of such person or corporation as may be
97 required by the commission. Such reports shall be in the form, cover the period and be filed at
98 the time prescribed by the commission. The commission may, from time to time, make changes
99 and additions in such forms. When any such report is defective or believed to be erroneous, the
100 commission shall notify the person or corporation making such report to amend the same within
101 a time prescribed by the commission. Any such person or corporation which shall neglect to
102 make any such report or which shall fail to correct any such report within the time prescribed by
103 the commission shall be liable to a penalty of one hundred dollars and an additional penalty of
104 one hundred dollars for each day after the prescribed time for which it shall neglect to file or
105 correct the same, to be sued for in the name of the state of Missouri. The amount recovered in
106 any such action shall be paid to the public school fund of the state. The commission may extend
107 the time prescribed for cause shown.

108 (7) Have power, either through its members or inspectors or employees duly authorized
109 by it, to enter in or upon and to inspect the property, buildings, plants, factories, powerhouses,
110 ducts, conduits and offices of any such corporations or persons.

111 (8) Have power to examine the accounts, books, contracts, records, documents and
112 papers of any such corporation or person, and have power, after hearing, to prescribe by order
113 the accounts in which particular outlays and receipts shall be entered, charged or credited.

114 (9) Have power to compel, by subpoena duces tecum, the production of any accounts,
115 books, contracts, records, documents, memoranda and papers. In lieu of requiring production
116 of originals by subpoena duces tecum the commission or any commissioner may require sworn
117 copies of any such books, records, contracts, documents and papers, or parts thereof, to be filed
118 with it. The commission may require of all such corporations or persons specific answers to
119 questions upon which the commission may need information, and may also require such
120 corporations or persons to file periodic reports in the form, covering the period and filed at the
121 time prescribed by the commission.

122 If such corporation or person shall fail to make specific answer to any question or shall fail to
123 make a periodic report when required by the commission as herein provided within the time and
124 in the form prescribed by the commission for the making and filing of any such report or answer,

125 such corporation or person shall forfeit to the state the sum of one hundred dollars for each and
126 every day it shall continue to be in default with respect to such report or answer. Such forfeiture
127 shall be recovered in an action brought by the commission in the name of the state of Missouri.
128 The amount recovered in any such action shall be paid to the public school fund of the state.

129 (10) Have power in all parts of the state, either as a commission or through its members,
130 to subpoena witnesses, take testimony and administer oaths to witnesses in any proceeding or
131 examination instituted before it, or conducted by it, in reference to any matter under sections
132 393.110 to 393.285.

133 (11) Have power to require every gas corporation, electrical corporation, water
134 corporation, and sewer corporation to file with the commission and to print and keep open to
135 public inspection schedules showing all rates and charges made, established or enforced or to be
136 charged or enforced, all forms of contract or agreement and all rules and regulations relating to
137 rates, charges or service used or to be used, and all general privileges and facilities granted or
138 allowed by such gas corporation, electrical corporation, water corporation, or sewer corporation;
139 but this subdivision shall not apply to state, municipal or federal contracts. Unless the
140 commission otherwise orders, no change shall be made in any rate or charge, or in any form of
141 contract or agreement, or any rule or regulation relating to any rate, charge or service, or in any
142 general privilege or facility, which shall have been filed and published by a gas corporation,
143 electrical corporation, water corporation, or sewer corporation in compliance with an order or
144 decision of the commission, except after thirty days' notice to the commission and publication
145 for thirty days as required by order of the commission, which shall plainly state the changes
146 proposed to be made in the schedule then in force and the time when the change will go into
147 effect. The commission for good cause shown may allow changes without requiring the thirty
148 days' notice under such conditions as it may prescribe. No corporation shall charge, demand,
149 collect or receive a greater or less or different compensation for any service rendered or to be
150 rendered than the rates and charges applicable to such services as specified in its schedule filed
151 and in effect at the time; nor shall any corporation refund or remit in any manner or by any
152 device any portion of the rates or charges so specified, nor to extend to any person or corporation
153 any form of contract or agreement, or any rule or regulation, or any privilege or facility, except
154 such as are regularly and uniformly extended to all persons and corporations under like
155 circumstances. The commission shall have power to prescribe the form of every such schedule,
156 and from time to time prescribe by order such changes in the form thereof as may be deemed
157 wise. The commission shall also have power to establish such rules and regulations, to carry into
158 effect the provisions of this subdivision, as it may deem necessary, and to modify and amend
159 such rules or regulations from time to time.

160 (12) In case any electrical corporation, gas corporation, water corporation or sewer
161 corporation engaged in carrying on any other business than owning, operating or managing a gas
162 plant, electric plant, water system or sewer system which other business is not otherwise subject
163 to the jurisdiction of the commission, and is so conducted that its operations are to be
164 substantially kept separate and apart from the owning, operating, managing or controlling of such
165 gas plant, electric plant, water system or sewer system, said corporation in respect to such other
166 business shall not be subject to any of the provisions of this chapter and shall not be required to
167 procure the consent or authorization of the commission to any act in such other business or to
168 make any report in respect thereof. But this subdivision shall not restrict or limit the powers of
169 the commission in respect to the owning, operating, managing or controlling by such corporation
170 of such gas plant, electric plant, water system or sewer system, and said powers shall include also
171 the right to inquire as to, and prescribe the apportionment of, capitalization, earnings, debts and
172 expenses fairly and justly to be awarded to or borne by the ownership, operation, management
173 or control of such gas plant, electric plant, water system or sewer system as distinguished from
174 such other business. In any such case if the owning, operating, managing or controlling of such
175 gas plant, electric plant, water system or sewer system by any such corporation is wholly
176 subsidiary and incidental to the other business carried on by it and is inconsiderable in amount
177 and not general in its character, the commission may by general rules exempt such corporation
178 from making full reports and from the keeping of accounts as to such subsidiary and incidental
179 business.

180 (13) **Require every person and corporation under its supervision, and it shall be the**
181 **duty of such person and corporation, to file with the commission a quarterly report which**
182 **shall include its actual earned return on equity for the preceding twelve-month period and**
183 **the preceding quarter, and such supporting information as required by the commission.**
184 **Such reports shall be in the form and be filed at the time prescribed by the commission.**
185 **Notwithstanding the provisions of section 386.480 or any other provision of law to the**
186 **contrary, such reports shall be available to the public; however, the person or corporation**
187 **may request that the commission restrict the disclosure of any information included in the**
188 **report, except for the actual earned return on equity, on the grounds that such information**
189 **is proprietary or highly confidential. The commission may grant such a request for good**
190 **cause shown.**

393.150. 1. Whenever there shall be filed with the commission by any gas corporation,
2 electrical corporation, water corporation or sewer corporation any schedule stating a new rate or
3 charge, or any new form of contract or agreement, or any new rule, regulation or practice relating
4 to any rate, charge or service or to any general privilege or facility, the commission shall have,
5 and it is hereby given, authority, either upon complaint or upon its own initiative without

6 complaint, at once, and if it so orders without answer or other formal pleading by the interested
7 gas corporation, electrical corporation, water corporation or sewer corporation, but upon
8 reasonable notice, to enter upon a hearing concerning the propriety of such rate, charge, form of
9 contract or agreement, rule, regulation or practice, and pending such hearing and the decision
10 thereon, the commission upon filing with such schedule, and delivering to the gas corporation,
11 electrical corporation, water corporation or sewer corporation affected thereby, a statement in
12 writing of its reasons for such suspension, may suspend the operation of such schedule and defer
13 the use of such rate, charge, form of contract or agreement, rule, regulation or practice, but not
14 for a longer period than one hundred and twenty days beyond the time when such rate, charge,
15 form of contract or agreement, rule, regulation or practice would otherwise go into effect; and
16 after full hearing, whether completed before or after the rate, charge, form of contract or
17 agreement, rule, regulation or practice goes into effect, the commission may make such order in
18 reference to such rate, charge, form of contract or agreement, rule, regulation or practice as
19 would be proper in a proceeding initiated after the rate, charge, form of contract or agreement,
20 rule, regulation or practice had become effective.

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

28 **3. In determining the authorized rate of return on equity for any gas corporation,**
29 **electrical corporation, water corporation, or sewer corporation in a general rate**
30 **proceeding, the commission's determination of the appropriate return on equity shall take**
31 **into consideration the impact of changing economic conditions and the proposed rate of**
32 **return on customers. The commission shall hear evidence concerning these factors and**
33 **shall make specific findings of fact concerning its consideration of these factors and their**
34 **impact on the corporation's rate of return on equity.**

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