

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 723
91ST GENERAL ASSEMBLY

Reported from the Committee on Utilities Regulation, April 9, 2001, with recommendation that the House Committee Substitute for House Bill No. 723 Do Pass.

TED WEDEL, Chief Clerk

1626L.02C

AN ACT

To amend chapter 393, RSMo, by adding thereto two new sections relating to allowing certain electrical corporations to recover certain costs, with an emergency clause.

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

Section A. Chapter 393, RSMo, is amended by adding thereto two new sections, to be known as sections 393.158 and 393.159, to read as follows:

393.158. 1. Notwithstanding any other provision of law to the contrary, each electrical corporation serving fewer than three hundred thousand retail electric customers in this state shall be allowed an opportunity, pursuant to this section, to timely recover all of its reasonably and prudently incurred costs of natural gas associated with the production of electricity for its retail customers in plants which were in operation or for which construction was at least thirty percent complete, as determined by the commission, on or before January 1, 2001, and, until one year following the effective date of this section, one hundred percent of and, thereafter, fifty percent of, costs associated with the acquisition of electricity for its retail customers. The costs subject to recovery shall include the natural gas and the transportation thereof used by the corporation to generate electricity in plants which were in operation or for which construction was at least thirty percent complete, as determined by the commission, on or before January 1, 2001, and the percentage established in this subsection of the costs of purchased electric energy impacted by the cost of natural gas. The cost recovery shall be pursuant to rate schedules designed to specifically recover such costs. Cost recovery for purchased energy shall only be permitted if the electrical corporation provides documentation which clearly identifies, in

17 a manner acceptable to the commission, the impact of the cost of natural gas on the
18 purchase price of the electric energy. The commission shall have the authority to approve
19 a recovery mechanism which shall be set forth in such rate schedules, and shall follow the
20 same method the commission utilizes for purchased gas cost recovery by gas corporations,
21 except as provided in this section.

22 2. Except as otherwise provided in subsection 6 of this section, the rate schedules
23 to implement this recovery mechanism shall be initially established in a general rate
24 proceeding for each individual electrical corporation.

25 3. After the initial establishment of recovery rate schedules pursuant to subsection
26 2 of this section, each electrical corporation with natural gas cost recovery rate schedules
27 shall file replacement schedules with the commission every six months, regardless of
28 whether it seeks a change, unless it has had such schedules replaced in a general rate case
29 within the most recent six months. Each such filing shall include detailed accounting
30 records sufficient for the commission to determine whether to establish, continue, reduce
31 or increase the level of such adjustment. Copies of all such filings and accounting records
32 shall also be delivered on the same calendar day to the office of public counsel. The forty-
33 five day period for a ruling pursuant to this section shall not begin until such
34 documentation has been delivered by the electrical corporation to both the commission and
35 the public counsel.

36 4. Filings pursuant to subsection 3 of this section shall not be subject to suspension
37 by the commission. Any filing submitted pursuant to subsection 3 of this section shall be
38 considered on an expedited basis and a ruling shall be made by the commission within
39 forty-five days of the date of filing. The public counsel and any customer shall have
40 standing to intervene in any proceeding pursuant to this section, but such intervention
41 shall not extend the forty-five day period for making a ruling. The revised rate schedules
42 shall become effective immediately upon such ruling, but such rate schedules shall be
43 interim in nature and subject to refund as provided in this section. Applications for
44 rehearing of any order approving such rate schedules for these purposes may be filed
45 within ten days of such ruling, but applications for writs of review shall not be permitted
46 from the denial of an application for rehearing.

47 5. If the commission finds, upon review of a filing required pursuant to subsection
48 3 of this section, evidence of the substantial possibility of overearnings on the part of the
49 electrical corporation, the commission shall initiate a general rate proceeding for the
50 electrical corporation.

51 6. The commission shall establish and implement a "true-up" mechanism similar
52 to the purchased gas cost recovery by gas corporations, which shall accurately and

53 appropriately remedy any over-collections from previous adjustment periods through a
54 refund procedure which includes interest at the electrical corporation's short-term debt
55 rate. Any such refunds shall be processed during the next available monthly billing cycle.
56 An electrical corporation shall not be entitled pursuant to this section to collect any
57 additional under-collections from previous adjustment periods. The commission shall
58 establish a case for the review of each adjustment period. Such case shall be considered
59 on an expedited basis, and a ruling shall be made by the commission within thirty days of
60 the date such case is established. The public counsel and any customer shall have standing
61 to intervene in such case, but such intervention shall not extend the thirty-day period for
62 making a ruling. The commission's final order in such case shall be subject to judicial
63 review pursuant to section 386.510, RSMo.

64 7. Provisions of subsection 2 of this section to the contrary notwithstanding, any
65 electrical corporation filing for establishment of rate schedules pursuant to subsection 2
66 of this section no later than ninety days following the effective date of this section may
67 request, at the time of such filing, emergency establishment of interim schedules pursuant
68 to subsections 3 to 6 of this section. Such schedules shall be interim in nature and subject
69 to true-up pursuant to subsection 6 of this section upon issue of the general rate order
70 required pursuant to subsection 2 of this section. Emergency schedules shall be established
71 pursuant to this subsection only in the case that, at the time of the filing, the electrical
72 corporation is experiencing a twenty-five percent or greater increase in the price of natural
73 gas as compared to the price used to establish its then currently effective rate schedules.

74 8. Nothing in this section shall be construed as limiting the authority of the
75 commission to continue to further review natural gas costs, other fuel costs, purchased
76 energy costs, purchased capacity costs, or any other related issues along with other
77 nonrelated costs or issues during any general rate proceeding of any electrical corporation
78 under its jurisdiction.

2 **393.159. Notwithstanding any other provision of law to the contrary, each electrical**
3 **corporation, which is required by its bylaws to operate on a nonprofit basis, shall be**
4 **allowed, pursuant to this section, to timely recover and pass the cost through to its retail**
5 **customers its reasonably and prudently incurred costs associated with the purchase of**
6 **electric energy and the transportation thereof for its retail customers under an automatic**
7 **adjustment provision.**

2 Section B. Because of the immediate need to allow electrical corporations to timely
3 recover unanticipated and rapidly increasing costs incurred to purchase natural gas for production
4 of electricity, 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

5 the meaning of the constitution, and section A of this act shall be in full force and effect upon
6 its passage and approval.