

FIRST REGULAR SESSION

HOUSE BILL NO. 723

91ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES MAYS (50), BURTON (Co-sponsors), LEGAN, HUNTER, SCOTT, SMITH, HEGEMAN, HOHULIN, GRIESHEIMER, O'TOOLE, SURFACE, BARTELSMEYER, HARTZLER, ABEL, HOLT, MARBLE, SKAGGS, ROBIRDS, BERKSTRESSER, GASKILL, COOPER, DAVIS AND WILLOUGHBY.

Read 1st time February 8, 2001, and 1000 copies ordered printed.

TED WEDEL, Chief Clerk

1626L.011

AN ACT

To amend chapter 393, RSMo, by adding thereto one new section 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 one new section, to be known as section 393.158, to read as follows:

393.158. 1. Notwithstanding any other provision of law to the contrary, each electrical corporation 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 a manner acceptable to the commission, the impact of the cost of natural gas on the

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

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

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

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

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

50 6. The commission shall establish and implement a "true-up" mechanism similar
51 to the purchased gas cost recovery by gas corporations, which shall accurately and
52 appropriately remedy any over-collections from previous adjustment periods through a

53 refund procedure which includes interest at the electrical corporation's short-term debt
54 rate. An electrical corporation shall not be entitled pursuant to this section to collect any
55 additional under-collections from previous adjustment periods. The commission shall
56 establish a case for the review of each adjustment period, and the commission's final order
57 in such case shall be subject to judicial review pursuant to section 386.510, RSMo.

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

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

Section B. Because of the immediate need to allow electrical corporations to timely
2 recover unanticipated and rapidly increasing costs incurred to purchase natural gas for production
3 of electricity, section A of this act is deemed necessary for the immediate preservation of the
4 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.