

FIRST REGULAR SESSION

HOUSE BILL NO. 426

92ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES RECTOR, BYRD (Co-sponsors) AND KELLY (144).

Read 1st time February 6, 2003, and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

1460L.011

AN ACT

To amend chapter 393, RSMo, by adding thereto three new sections relating to water corporations.

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

Section A. Chapter 393, RSMo, is amended by adding thereto three new sections, to be
2 known as sections 393.1000, 393.1003, and 393.1006, to read as follows:

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

2 **(1) "Appropriate pretax revenues", the revenues necessary to:**

3 **(a) Produce net operating income equal to the water corporation's weighted cost**
4 **of capital multiplied by the net original cost of eligible infrastructure system replacements,**
5 **including recognition of accumulated depreciation on prior ISRS water utility plant**
6 **projects; and**

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

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

10 **(3) "Eligible infrastructure system replacements", water utility plant projects that**
11 **replace existing infrastructure and that are used and useful and that:**

12 **(a) Replace or extend the useful life of existing infrastructure;**

13 **(b) Are in service and used and useful;**

14 **(c) Do not increase revenues by directly connecting the infrastructure replacement**
15 **to new customers;**

16 **(d) Were not included in the water corporation's rate base in its most recent**
17 **general rate case; and**

18 **(e) Were not incorporated into a prior ISRS filing;**

- 19 (4) "ISRS", infrastructure system replacement surcharge;
- 20 (5) "ISRS costs", depreciation expenses, property taxes, and appropriate pretax
21 revenues associated with eligible infrastructure system replacements;
- 22 (6) "ISRS revenues", revenues produced through the application of an ISRS,
23 exclusive of revenues from all other rates and charges;
- 24 (7) "Water corporation", every corporation, company, association, joint stock
25 company or association, partnership, or person, their lessees, trustees, or receivers
26 appointed by any court whatsoever, owning, operating, controlling, or managing any plant
27 or property, dam or water supply, canal, or power station, distributing or selling for
28 distribution, or selling or supplying for gain any water to more than ten thousand
29 customers;
- 30 (8) "Water utility plant projects", may consist only of the following:
- 31 (a) Mains, and associated valves and hydrants, installed as replacements for
32 existing facilities that have worn out or are in deteriorated condition;
- 33 (b) Main cleaning and relining projects; and
- 34 (c) Main replacement or relocation projects required as a result of highway
35 relocation projects, but only to the extent that the costs related to such main replacement
36 or relocation projects have not been reimbursed to the water corporation.

393.1003. 1. Notwithstanding any provisions of chapter 386, RSMo, and this
2 chapter to the contrary, immediately upon the effectuation of sections 393.1000 to 393.1006,
3 a water corporation providing water service may file a petition with the commission to
4 establish or change ISRS rate schedules that will allow for the adjustment of the water
5 corporation's rates and charges per a separate line billing item to provide for the recovery
6 of prudently incurred costs for eligible infrastructure system replacements; provided that
7 an ISRS, from the point in time on which it initiates to the date ISRS surcharges become
8 a part of the water corporation's base rates and charges, will produce ISRS revenues of at
9 least one million dollars but not in excess of ten percent of the water corporation's base
10 revenue level approved by the commission in the water corporation's most recent general
11 rate proceeding. An ISRS and any future changes thereto shall be calculated and
12 implemented in accordance with the provisions of section 393.1006. ISRS revenues shall
13 be subject to refund based upon a finding and order of the commission, consistent with the
14 provisions of subsections 5 and 6 of section 393.1006.

15 2. The commission shall not approve an ISRS for a water corporation that has not
16 had a general rate proceeding decided or dismissed by a commission report and order
17 within the past three years, unless the water corporation has filed for or is the subject of
18 a new general rate proceeding.

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

393.1006. 1. (1) At the time that a water corporation files a petition seeking to
2 **establish or change an ISRS with the commission, it shall submit its supporting**
3 **documentation regarding the calculation of the proposed ISRS with the petition filing, and**
4 **shall serve the office of the public counsel with a copy of its petition and its supporting**
5 **documentation.**

6 **(2) Upon the filing of a petition seeking to establish or change an ISRS, the**
7 **commission shall publish notice of the filing.**

8 **2. (1) When a petition is filed pursuant to the provisions of sections 393.1000 to**
9 **393.1006, the commission shall conduct an examination of the proposed ISRS.**

10 **(2) The staff of the commission may examine information of the water corporation**
11 **to confirm that the underlying costs are in accordance with the provisions of sections**
12 **393.1000 to 393.1006, and to confirm proper calculation of the proposed ISRS, and may**
13 **submit a report regarding its examination to the commission not later than sixty days after**
14 **the petition is filed.**

15 **(3) The commission may hold a hearing and shall issue an order regarding the**
16 **proposed ISRS which is to become effective not later than one hundred twenty days after**
17 **the petition is filed.**

18 **(4) If the commission finds that a petition complies with the requirements of**
19 **sections 393.1000 to 393.1006, the commission shall enter an order authorizing the water**
20 **corporation to impose an ISRS that is sufficient to recover eligible ISRS costs, as**
21 **determined by the commission pursuant to the provisions of this section. The commission**
22 **shall, however, only allow such surcharges to apply to classes of customers receiving a**
23 **benefit from the subject water utility plant projects or shall prorate the surcharge**
24 **according to the benefit received by each class of customers; provided that the ISRS shall**
25 **be applied in all instances in a manner consistent with the customer class cost-of-service**
26 **study utilized by the commission in the water corporation's most recent general rate**
27 **proceeding. The commission shall not consider any infrastructure system replacements**
28 **included in the water corporation's rate base in its last general rate proceeding in**
29 **determining the appropriate ISRS pursuant to this subdivision.**

30 **3. A water corporation may file a petition for a change in ISRS rate under this**

31 section no more often than twice every twelve months.

32 4. In determining the appropriate pretax revenues, the commission shall consider
33 the following factors:

34 (1) The current state, federal, and local income tax or excise rates;

35 (2) The water corporation's actual regulatory capital structure as determined
36 during the most recent general rate proceeding of the water corporation;

37 (3) The actual cost rates for the water corporation's debt and preferred stock as
38 determined during the most recent general rate proceeding of the water corporation; and

39 (4) The water corporation's cost of common equity as determined during the most
40 recent general rate proceeding of the water corporation.

41 5. (1) An ISRS shall be calculated based upon the amount of ISRS costs that are
42 eligible for recovery during the period in which the surcharge will be in effect and upon
43 the applicable customer class billing determinants utilized in designing the water
44 corporation's customer rates in its most recent general rate proceeding.

45 (2) At the end of each twelve-month calendar period that an ISRS is in effect, the
46 water corporation shall reconcile the differences between the revenues resulting from the
47 surcharge and the underlying costs during that period and shall submit the reconciliation
48 and a proposed surcharge adjustment to the commission for approval to recover or refund
49 the difference, as appropriate, through adjustment of the surcharge.

50 (3) In determining whether an under-recovery or over-recovery of ISRS revenues
51 occurred in the subject twelve-month calendar period, the commission may also consider
52 allegations of imprudence related to the water utility plant projects upon which the ISRS
53 was based.

54 6. (1) A water corporation that has implemented an ISRS pursuant to the
55 provisions of section 393.1003 shall file revised rate schedules to reset the surcharge to zero
56 when new base rates and charges become effective for the water corporation following a
57 commission report and order establishing customer rates in a general rate proceeding that
58 includes in the utility's rate base eligible costs previously reflected in the surcharge.

59 (2) Prior to inclusion in a water corporation's base rates in a general rate
60 proceeding, any ISRS revenues that have not been reconciled in accordance with the
61 procedures provided for in subsection 5 of this section shall be reconciled in accordance
62 with those procedures immediately after issuance of a commission report and order
63 resolving the general rate proceeding.

64 7. A water corporation's filing of a petition to establish or change an ISRS pursuant
65 to this section shall not be considered a request for a general increase in the water
66 corporation's base rates and charges.

67 **8. The commission's approval of an ISRS petition shall in no way be binding upon**
68 **the commission in determining the ratemaking treatment to be applied to eligible**
69 **infrastructure system replacements during an annual reconciliation proceeding or during**
70 **a general rate proceeding filed after an ISRS is approved but not yet reconciled.**

71 **9. The commission shall have authority to promulgate rules for the implementation**
72 **of sections 393.1000 to 393.1006, but only to the extent such rules are consistent with, and**
73 **do not delay the implementation of, the provisions of sections 393.1000 to 393.1006. No**
74 **rule or portion of a rule promulgated pursuant to the authority of this section shall become**
75 **effective unless it has been promulgated pursuant to chapter 536, RSMo.**