

SECOND REGULAR SESSION

HOUSE BILL NO. 2424

103RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE OEHLERKING.

6065H.011

JOSEPH ENGLER, Chief Clerk

AN ACT

To repeal sections 386.370 and 393.140, RSMo, and to enact in lieu thereof two new sections relating to reports made to the public service commission.

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

Section A. Sections 386.370 and 393.140, RSMo, are repealed and two new sections
2 enacted in lieu thereof, to be known as sections 386.370 and 393.140, to read as follows:

386.370. 1. The commission shall, prior to the beginning of each fiscal year
2 beginning with the fiscal year commencing on July 1, 1947, make an estimate of the expenses
3 to be incurred by it during such fiscal year reasonably attributable to the regulation of public
4 utilities as provided in chapters 386, 392 and 393 and shall also separately estimate the
5 amount of such expenses directly attributable to such regulation of each of the following
6 groups of public utilities: electrical corporations, gas corporations, water corporations,
7 heating companies and telephone corporations, telegraph corporations, sewer corporations,
8 and any other public utility as defined in section 386.020, as well as the amount of such
9 expenses not directly attributable to any such group. For purposes of this section, water
10 corporations and sewer corporations will be combined and considered one group of public
11 utilities.

12 2. The commission shall allocate to each such group of public utilities the estimated
13 expenses directly attributable to the regulation of such group and an amount equal to such
14 proportion of the estimated expenses not directly attributable to any group as the gross
15 intrastate operating revenues of such group during the preceding calendar year bears to the
16 total gross intrastate operating revenues of all public utilities subject to the jurisdiction of the
17 commission, as aforesaid, during such calendar year. The commission shall then assess the

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.

18 amount so allocated to each group of public utilities, subject to reduction as herein provided,
19 to the public utilities in such group in proportion to their respective gross intrastate operating
20 revenues during the preceding calendar year, except that the total amount so assessed to all
21 such public utilities, except telecommunications corporations, shall not exceed four hundred
22 fifty thousandths of one percent of the total gross intrastate operating revenues of all public
23 utilities, except telecommunications corporations, subject to the jurisdiction of the
24 commission. The total amount to be assessed to all telecommunications corporations,
25 including interconnected voice over internet protocol service providers, shall not exceed two
26 hundred fifty thousandths of one percent of the total gross intrastate operating revenues of all
27 telecommunications corporations and interconnected voice over internet protocol service
28 providers subject to the jurisdiction of the commission.

29 3. The commission shall render a statement of such assessment to each such public
30 utility on or before July first and the amount so assessed to each such public utility shall be
31 paid by it to the director of revenue in full on or before July fifteenth next following the
32 rendition of such statement, except that any such public utility may at its election pay such
33 assessment in four equal installments not later than the following dates next following the
34 rendition of said statement, to wit: July fifteenth, October fifteenth, January fifteenth and
35 April fifteenth. The director of revenue shall remit such payments to the state treasurer.

36 4. The state treasurer shall credit such payments to a special fund, which is hereby
37 created, to be known as "The Public Service Commission Fund", which fund, or its successor
38 fund created pursuant to section 33.571, shall be devoted solely to the payment of
39 expenditures actually incurred by the commission and attributable to the regulation of such
40 public utilities subject to the jurisdiction of the commission, as aforesaid. Any amount
41 remaining in such special fund or its successor fund at the end of any fiscal year shall not
42 revert to the general revenue fund, but shall be applicable by appropriation of the general
43 assembly to the payment of such expenditures of the commission in the succeeding fiscal year
44 and shall be applied by the commission to the reduction of the amount to be assessed to such
45 public utilities in such succeeding fiscal year, such reduction to be allocated to each group of
46 public utilities in proportion to the respective gross intrastate operating revenues of the
47 respective groups during the preceding calendar year.

48 5. In order to enable the commission to make the allocations and assessments herein
49 provided for, each public utility subject to the jurisdiction of the commission as aforesaid
50 shall file with the commission, within ten days after August 28, 1996, and thereafter on or
51 before March thirty-first of each year, a statement under oath **or by a declaration that the**
52 **statement is made under penalty of perjury in accordance with section 509.030** showing
53 its gross intrastate operating revenues for the preceding calendar year, and if any public utility

54 shall fail to file such statement within the time aforesaid the commission shall estimate such
55 revenue which estimate shall be binding on such public utility for the purpose of this section.

393.140. The commission shall:

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

11 (2) Investigate and ascertain, from time to time, the quality of gas or water supplied
12 and sewer service furnished by persons and corporations, examine or investigate the methods
13 employed by such persons and corporations in manufacturing, distributing and supplying gas
14 or electricity for light, heat or power and in transmitting the same, and in supplying and
15 distributing water for any purpose whatsoever, and in furnishing a sewer system, and have
16 power to order such reasonable improvements as will best promote the public interest,
17 preserve the public health and protect those using such gas, electricity, water, or sewer
18 system, and those employed in the manufacture and distribution thereof, and have power to
19 order reasonable improvements and extensions of the works, wires, poles, pipes, lines,
20 conduits, ducts and other reasonable devices, apparatus and property of gas corporations,
21 electrical corporations, water corporations, and sewer corporations.

22 (3) Have power, by order, to fix from time to time standards for the measurement of
23 the 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
25 efficiency of the electric supply system, of the current supplied and of the lamps furnished by
26 the persons or corporations generating and selling electric current, and to fix from time to
27 time standards for the measurement of the purity or pressure of water to be distributed or sold
28 by persons or corporations for any purpose whatsoever, and to fix from time to time the
29 standards for designing, constructing, operating and maintaining sewer systems of sewer
30 corporations, including sewers, sewage pumping stations, sewage treatment works, primary
31 treatment facilities, sludge digestion and disposal facilities, secondary treatment facilities,
32 disinfection facilities, and any and all facilities related thereto; provided, however, that such
33 standards shall be supplemental to and in no way set standards lesser than the minimum
34 standards adopted by the state water pollution board, and by order to require gas so
35 manufactured, distributed or sold to equal the standards so fixed by it, and to prescribe from

36 time to time the reasonable minimum and maximum pressure at which gas shall be delivered
37 by said persons or corporations. For the purpose of determining whether the gas
38 manufactured, distributed or sold by such persons or corporations for lighting, heating or
39 power purposes conforms to the standards of illuminating power, purity and pressure, and for
40 the purpose of determining whether the efficiency of the electric supply system, of the current
41 supplied and of the lamps furnished, and for the purpose of determining whether the water
42 furnished or sold conforms to the standard of purity and pressure, and for the purpose of
43 determining whether the sewer system conforms to the standards for designing, constructing,
44 operating and maintaining sewer systems, and conforms to the orders issued by the
45 commission, the commission shall have power, of its own motion, to examine and investigate
46 the plants and methods employed in manufacturing, delivering and supplying gas, electricity
47 or water, and the collecting, carrying, treating and disposing of sewage, and shall have access,
48 through its members or persons employed and authorized by it, to make such examinations
49 and investigations to all parts of the manufacturing plants owned, used or operated for the
50 manufacture, transmission or distribution of gas or electricity by any such person or
51 corporation, and to all parts of the systems owned, used or operated for the supplying and
52 distribution of water and the collecting, carrying, treating and disposing of sewage by any
53 such person or corporation. Any employee or agent of the commission who divulges any fact
54 or information which may come to his knowledge during the course of any such inspection or
55 examination, except insofar as he may be directed by the commission, or by a court or judge
56 thereof, or authorized by law, shall be guilty of a misdemeanor.

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

69 (5) Examine all persons and corporations under its supervision and keep informed as
70 to the methods, practices, regulations and property employed by them in the transaction of
71 their business. Whenever the commission shall be of the opinion, after a hearing had upon its
72 own motion or upon complaint, that the rates or charges or the acts or regulations of any such

73 persons or corporations are unjust, unreasonable, unjustly discriminatory or unduly
74 preferential or in any wise in violation of any provision of law, the commission shall
75 determine and prescribe the just and reasonable rates and charges thereafter to be in force for
76 the service to be furnished, notwithstanding that a higher rate or charge has heretofore been
77 authorized by statute, and the just and reasonable acts and regulations to be done and
78 observed; and whenever the commission shall be of the opinion, after a hearing had upon its
79 own motion or upon complaints, that the property, equipment or appliances of any such
80 person or corporation are unsafe, insufficient or inadequate, the commission shall determine
81 and prescribe the safe, efficient and adequate property, equipment and appliances thereafter to
82 be used, maintained and operated for the security and accommodation of the public and in
83 compliance with the provisions of law and of their franchises and charters.

84 (6) Require every person and corporation under its supervision and it shall be the duty
85 of every person and corporation to file with the commission an annual report, verified by the
86 oath **or by a declaration that the statement is made under penalty of perjury in**
87 **accordance with section 509.030** of the president, treasurer, general manager or receiver, if
88 any, thereof. The verification shall be made by said official holding office at the time of the
89 filing of said report, and if not made upon the knowledge of the person verifying the same,
90 shall set forth the sources of his information and the grounds of his belief as to any matters
91 not stated to be verified upon his knowledge. The report shall show in detail the amount of its
92 authorized capital stock and the amount thereof issued and outstanding; the amount of its
93 authorized bonded indebtedness and the amount of its bonds and other forms of evidence of
94 indebtedness issued and outstanding; its receipts and expenditures during the preceding year;
95 the amount paid as dividends upon its stock and as interest upon its bonds; the names of its
96 officers and the aggregate amount paid as salaries to them and the amount paid as wages to its
97 employees; the location of its plant or plants and system, with a full description of its property
98 and franchises, stating in detail how each franchise stated to be owned was acquired; and such
99 other facts pertaining to the operation and maintenance of the plant and system, and the
100 affairs of such person or corporation as may be required by the commission. Such reports
101 shall be in the form, cover the period and be filed at the time prescribed by the commission.
102 The commission may, from time to time, make changes and additions in such forms. When
103 any such report is defective or believed to be erroneous, the commission shall notify the
104 person or corporation making such report to amend the same within a time prescribed by the
105 commission. Any such person or corporation which shall neglect to make any such report or
106 which shall fail to correct any such report within the time prescribed by the commission shall
107 be liable to a penalty of one hundred dollars and an additional penalty of one hundred dollars
108 for each day after the prescribed time for which it shall neglect to file or correct the same, to
109 be sued for in the name of the state of Missouri. The amount recovered in any such action

110 shall be paid to the public school fund of the state. The commission may extend the time
111 prescribed for cause shown.

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

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

118 (9) Have power to compel, by subpoena duces tecum, the production of any accounts,
119 books, contracts, records, documents, memoranda and papers. In lieu of requiring production
120 of originals by subpoena duces tecum the commission or any commissioner may require
121 sworn copies of any such books, records, contracts, documents and papers, or parts thereof, to
122 be filed with it. The commission may require of all such corporations or persons specific
123 answers to questions upon which the commission may need information, and may also require
124 such corporations or persons to file periodic reports in the form, covering the period and filed
125 at the time prescribed by the commission. If such corporation or person shall fail to make
126 specific answer to any question or shall fail to make a periodic report when required by the
127 commission as herein provided within the time and in the form prescribed by the commission
128 for the making and filing of any such report or answer, such corporation or person shall forfeit
129 to the state the sum of one hundred dollars for each and every day it shall continue to be in
130 default with respect to such report or answer. Such forfeiture shall be recovered in an action
131 brought by the commission in the name of the state of Missouri. The amount recovered in
132 any such action shall be paid to the public school fund of the state.

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

137 (11) Have power to require every gas corporation, electrical corporation, water
138 corporation, and sewer corporation to file with the commission and to print and keep open to
139 public inspection schedules showing all rates and charges made, established or enforced or to
140 be charged or enforced, all forms of contract or agreement and all rules and regulations
141 relating to rates, charges or service used or to be used, and all general privileges and facilities
142 granted or allowed by such gas corporation, electrical corporation, water corporation, or
143 sewer corporation; but this subdivision shall not apply to state, municipal or federal contracts.
144 Unless the commission otherwise orders, no change shall be made in any rate or charge, or in
145 any form of contract or agreement, or any rule or regulation relating to any rate, charge or
146 service, or in any general privilege or facility, which shall have been filed and published by a

147 gas corporation, electrical corporation, water corporation, or sewer corporation in compliance
148 with an order or decision of the commission, except after thirty days' notice to the
149 commission and publication for thirty days as required by order of the commission, which
150 shall plainly state the changes proposed to be made in the schedule then in force and the time
151 when the change will go into effect. The commission for good cause shown may allow
152 changes without requiring the thirty days' notice under such conditions as it may prescribe.
153 No corporation shall charge, demand, collect or receive a greater or less or different
154 compensation for any service rendered or to be rendered than the rates and charges applicable
155 to such services as specified in its schedule filed and in effect at the time; nor shall any
156 corporation refund or remit in any manner or by any device any portion of the rates or charges
157 so specified, nor to extend to any person or corporation any form of contract or agreement, or
158 any rule or regulation, or any privilege or facility, except such as are regularly and uniformly
159 extended to all persons and corporations under like circumstances. The commission shall
160 have power to prescribe the form of every such schedule, and from time to time prescribe by
161 order such changes in the form thereof as may be deemed wise. The commission shall also
162 have power to establish such rules and regulations, to carry into effect the provisions of this
163 subdivision, as it may deem necessary, and to modify and amend such rules or regulations
164 from time to time.

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

183 the commission may by general rules exempt such corporation from making full reports and
184 from the keeping of accounts as to such subsidiary and incidental business.

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