FIRST REGULAR SESSION

SENATE COMMITTEE SUBSTITUTE FOR

SENATE BILL NO. 455

91ST GENERAL ASSEMBLY

Reported from the Committee on Commerce and Environment, March 29, 2001, with recommendation that the Senate Committee Substitute do pass.

TERRY L. SPIELER, Secretary.

1619S.07C

AN ACT

To repeal sections 153.030 and 153.034, RSMo 2000, and to enact in lieu thereof ten new sections relating to electric utilities.

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

Section A. Sections 153.030 and 153.034, RSMo 2000, are repealed and ten new sections enacted in lieu thereof, to be known as sections 153.030, 153.034, 393.960, 393.963, 393.966, 393.969, 393.972, 393.975, 393.981 and 640.887, to read as follows:

153.030. 1. All bridges over streams dividing this state from any other state owned, used, leased or otherwise controlled by any person, corporation, railroad company or joint stock company, and all bridges across or over navigable streams within this state, where the charge is made for crossing the same, which are now constructed, which are in the course of construction, or which shall hereafter be constructed, and all property, real and tangible personal, owned, used, leased or otherwise controlled by telegraph, telephone, electric power and light companies, electric transmission lines, pipeline companies and express companies shall be subject to taxation for state, county, municipal and other local purposes to the same extent as the property of private persons.

2. And taxes levied thereon shall be levied and collected in the manner as is now or may hereafter be provided by law for the taxation of railroad property in this state, and county commissions, county boards of equalization and the state tax commission are hereby required to perform the same duties and are given the same powers, including punitive powers, in assessing, equalizing and adjusting the taxes on the property set forth in this section as the county commissions and boards of equalization and state tax commission have or may hereafter be empowered with, in assessing, equalizing, and adjusting the taxes on railroad property; and an authorized officer of any such bridge, telegraph, telephone, electric power and light companies,

electric transmission lines, pipeline companies, or express company or the owner of any such toll bridge, is hereby required to render reports of the property of such bridge, telegraph, telephone, electric power and light companies, electric transmission lines, pipeline companies, or express companies in like manner as the authorized officer of the railroad company is now or may hereafter be required to render for the taxation of railroad property.

3. On or before the fifteenth day of April in the year 1946 and each year thereafter an authorized officer of each such company shall furnish the state tax commission and county clerks a report, duly subscribed and sworn to by such authorized officer, which is like in nature and purpose to the reports required of railroads under chapter 151, RSMo, showing the full amount of all real and tangible personal property owned, used, leased or otherwise controlled by each such company on January first of the year in which the report is due.

4. If any telephone company assessed pursuant to chapter 153 has a microwave relay station or stations in a county in which it has no wire mileage but has wire mileage in another county, then, for purposes of apportioning the assessed value of the distributable property of such companies, the straight line distance between such microwave relay stations shall constitute miles of wire. In the event that any public utility company assessed pursuant to this chapter has no distributable property which physically traverses the counties in which it operates, then the assessed value of the distributable property of such company shall be apportioned to the physical location of the distributable property.

5. All distributable property of electric power and light companies shall continue to be assessed, and the values distributed, by the method used during the 2000 assessment year. If any distributable property of an electric power and light company is sold or otherwise transferred to an affiliate of such electric power or light company pursuant to section 393.966 of the Electric Reliability and Economy Act of 2001, such sold or transferred property shall be treated as if it were owned by the electric power and light company seller or transferor for purposes of this subsection. Within ninety days after enactment of this provision, the state tax commission shall begin a rulemaking proceeding to adopt rules governing the methodologies to be used in identifying and assessing the distributable property described under this subsection. Such rules shall be consistent with the following criteria:

(1) The distributable property described in this subsection shall be valued in a manner similar to that used under the laws and regulations in effect immediately prior to the enactment of this subsection;

(2) The value of the property described in this subsection shall be allocated in a manner similar to that used under the laws and regulations in effect immediately prior to the enactment of this subsection; and

(3) The valuation and allocation methodologies embodied in such rules shall not

unduly discourage the construction and operation of electric generation capacity in Missouri or unduly increase the electric rates paid by Missouri consumers.

153.034. 1. The term "distributable property" of an electric company shall**, except as otherwise provided in subsection 2 of this section,** include all the real or tangible personal property which is used directly in the generation and distribution of electric power, but not property used as a collateral facility nor property held for purposes other than generation and distribution of electricity. Such distributable property includes, but is not limited to:

(1) Boiler plant equipment, turbogenerator units and generators;

(2) Station equipment;

(3) Towers, fixtures, poles, conductors, conduit transformers, services and meters;

(4) Substation equipment and fences;

(5) Rights-of-way;

(6) Reactor, reactor plant equipment, and cooling towers;

(7) Communication equipment used for control of generation and distribution of power;

(8) Land associated with such distributable property.

2. The term "local property" of an electric company shall include all real and tangible personal property owned, used, leased or otherwise controlled by the electric company **and except as provided in this subsection,** not used directly in the generation and distribution of power and not defined in subsection 1 of this section as distributable property. Such local property includes, but is not limited to:

(1) Motor vehicles;

(2) Construction work in progress;

(3) Materials and supplies;

(4) Office furniture, office equipment, and office fixtures;

(5) Coal piles and nuclear fuel;

(6) Land held for future use;

(7) Workshops, warehouses, office buildings and generating plant structures;

(8) Communication equipment not used for control of generation and distribution of power;

(9) Roads, railroads, and bridges;

(10) Reservoirs, dams, and waterways;

(11) Land associated with other locally assessed property and all generating plant land**;**

(12) Any real or tangible personal property which is used directly in the generation of electric power and which is placed in service after January 1, 2001.

393.960. Sections 393.960 to 393.981 shall be known as "The Electric Reliability and Economy Act of 2001".

393.963. As used in sections 393.960 to 393.981, the following terms mean:

(1) "Aggregate", to combine the loads of eligible retail customers for the purpose

of purchasing electric service;

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

(3) "Control area services", those services offered within transmission or distribution systems to which a common automatic control scheme is applied in order to match available electric power and energy with demand, maintain scheduled interchange with other control areas, provide operating reserves and ensure the safe and coordinated operation of the transmission and distribution facilities within a designated control area, and those services designated as ancillary services by the Federal Energy Regulatory Commission including, but not limited to, reactive supply and voltage control, regulation and frequency response, energy imbalance, and the provision of spinning and supplemental operating reserves;

(4) "Decommissioning costs", all reasonable costs and expenses that are expected to be incurred or are actually incurred prior or subsequent to, and at the time of, decommissioning in connection with the final entombment, decontamination, dismantlement, removal, disposal or other disposition of a nuclear power plant and of the structures, systems and components of that plant, or any radioactive or nonradioactive materials associated with the plant, including all costs and expenses expected to be incurred or actually incurred in connection with the preparation for decommissioning, such as engineering and other planning expenses, and to be incurred prior to or after the actual decommissioning occurs, such as physical security and radiation monitoring expenses, less proceeds of insurance, salvage or resale of machinery, construction equipment or apparatus, the cost of which is charged as a decommissioning expense in the electric utility's accounts;

(5) "Distribution service", the transportation of electricity over a distribution system and the associated metering, meter reading and billing services, extensions of distribution lines, connection of retail customers to the distribution system and disconnection of retail customers from the distribution system;

(6) "Distribution system", the physical plant used to distribute electricity from a transmission system or other point at which it enters the distribution system to the point or points of delivery, as defined in the electric utility's tariffs, on a retail customer's premises, including all real property, personal property, facilities, structures, wires, meters and appurtenances used for or in connection with, or to facilitate, the distribution of electricity;

(7) "Electric utility", an investor-owned electrical corporation that is a public utility providing utility services as of the effective date of sections 393.960 to 393.981, or a successor corporation providing distribution service following such effective date;

(8) "Existing regulatory asset", those assets that were reported, consistent with

applicable accounting regulations, by an electric utility as regulatory assets or deferred debits on its Form 1 report to the Federal Energy Regulatory Commission, prior to the effective date of sections 393.960 to 393.981, and includes, without limitation, costs associated with renegotiated or terminated fuel supply contracts, United States Department of Energy enrichment facility assessments, deferred maintenance costs, deferred income taxes, post-retirement benefits, refinancing of debt, losses on reacquired debt, post-operational costs reclassified from capital, recovery of impaired generation assets, changes in computer hardware or software made to address year 2000 issues, merger costs, environmental costs and phase-in of generation costs but shall not include acquisition premium or merger premium costs or costs that were previously the subject of a prior final commission rate order disallowing such costs;

(9) "Retail customer", a single person or entity using electric power or energy for end use purposes at a single premises and does not include aggregated loads of individual retail customers; provided that each person or entity using electric power or energy for end use purposes at a single premises shall be deemed to be a separate retail customer even if its load is aggregated with the loads of other retail customers;

(10) "Transmission service", the transportation of electricity over the transmission system;

(11) "Transmission system", those facilities that are subject to the jurisdiction of the Federal Energy Regulatory Commission and used to transmit electricity from the point where the electricity is generated to the points at which the electricity enters the distribution system, including all real property, personal property, facilities, structures, wires, meters and appurtenances used for or in connection with or to facilitate the transmission of electricity.

393.966. 1. An electric utility may, without obtaining any approval of the commission other than that provided for in this section and notwithstanding the requirements of sections 393.190, 393.200, 393.210, 393.240 and 393.250 or any other provision of sections 393.960 to 393.981, or chapter 386, RSMo, or this chapter, or any rule, regulation or order of the commission that would require such approval: implement a reorganization; sell, assign, lease or otherwise transfer all or substantially all of its generation plant and generation-related assets, or an allocated portion of such plant as described below, to an affiliated entity at historical net book value and, as part of such transaction, enter into service agreements, power purchase agreements or other agreements with the transferee or other affiliate, provided that the prices, terms and conditions of any power purchase agreement must be approved or allowed into effect by the Federal Energy Regulatory Commission; provided that no reorganization or transaction shall be approved for any electric utility pursuant to this section unless

the commission shall have established rates for such electric utility pursuant to a general order of ratemaking issued prior to such approval but no earlier than twelve months prior to the date of filing of the application for approval of such reorganization or transaction.

(1) An electric utility that is subject to the commission's jurisdiction and serving retail customers in more than one state, may transfer to an affiliated entity pursuant to this section an allocated portion of the utility's generation and generation-related assets, using a jurisdictional allocation methodology that the commission finds to be just and reasonable, and no approvals of the commission thereafter shall be required for a transfer of the remaining portions of the electric utility's generation or generation-related assets.

(2) An electric utility that transfers all or substantially all or an allocated portion of its generation plant and generation-related assets to an affiliate pursuant to this section shall enter into a legally enforceable power purchase agreement with its affiliate sufficient to cover its retail load in this state, not including the load associated with those customers served under the tariff required by subsection 2 of section 393.969, plus no more than the maximum reserve margin required by the regional reliability organization to which the electric utility belongs or a successor organization. Such agreement shall:

(a) Provide for the purchase of power and energy at rates that are cost-of-service regulated by the Federal Energy Regulatory Commission. If the Federal Energy Regulatory Commission or its successor organization no longer regulates the rates established under the power purchase agreement required by this section on a cost-of-service basis, then the commission shall have the authority to review and establish the cost-of-service rates in the power purchase agreement required by this section to the extent such agreement remains in effect and has not been superseded by alternative arrangements permitted by law;

(b) Be for an initial five-year term and provide for successive renewals for minimum three-year terms, provided, however, that nothing in this requirement for an initial five-year term or successive minimum three-year terms shall be construed as affecting the right of either party to the purchase power agreement to make an application to the Federal Energy Regulatory Commission for a change in the cost-of-service based rates and charges under Section 205 of the Federal Power Act and the rules and regulations promulgated thereunder during the initial or the renewal terms, or the right of any other entity to file a complaint with respect to such rates;

(c) Provide for the operation and maintenance of the transferred facilities in accordance with good utility practice and the requirements of any governmental

agency with jurisdiction;

(d) Include pricing terms that are consistent with cost-of-service pricing, promote rate stability and provide incentives to the electric utility to efficiently manage its load through rate options which allow its customers to respond to price changes in electricity markets;

(e) Contain such other provisions as are commonly used in the industry to ensure adequate capacity to meet the seller's obligations under the contract and the firm delivery of power and energy.

(3) An electric utility that transfers generation assets pursuant to this section shall comply with the rate provisions set forth in section 393.969.

2. In order to implement a reorganization and sell, assign, lease or otherwise transfer assets pursuant to this section, an electric utility shall apply to the commission for approval under this section. The electric utility's application shall include the following information:

(1) A detailed description of the proposed transaction including a description of the assets to be transferred, the legal form of the transfer, any related agreements to be entered into, the projected capital structure and costs of capital for both the electric utility that is transferring assets and the affiliate that will receive the assets, and an organizational chart illustrating the relationship between these entities and other affiliated companies following such transfer;

(2) A pro forma draft of the purchase power agreement that is required by subsection 1 of this section and a statement of how the affiliate's costs and revenues are to be allocated in establishing the prices to be charged under the power purchase agreement;

(3) A description of how the electric utility will meet the requirements of sections 393.972 and 393.975;

(4) A complete statement of the entries that the electric utility will make on its books and records of account to implement the proposed reorganization or transaction together with a certification from an independent certified public accountant that such entries are in accord with generally accepted accounting principles;

(5) Written testimony addressing each of the criteria identified in subdivisions (2) to (6) of subsection 3 of this section; and

(6) A list of all federal approvals or approvals required from departments and agencies of this state, other than the commission, that the electric utility has or will obtain before implementing the reorganization or transaction.

3. The commission shall, after notice and hearing, approve the proposed reorganization or transaction if it finds that:

(1) It has sufficient regulatory authority, resources and access to the books and records of the electric utility and any relevant affiliate to review the application and exercise its duties pursuant to this section;

(2) The application, as filed or amended, and the proposed transaction comply with the requirements stated in subsections 1 and 2 of this section;

(3) The proposed transaction is not expected to result in higher costs for the electric utility than it would incur in the absence of the proposed transaction, taking into account such additional capacity or energy as the electric utility would otherwise expect to use to meet forecasted demands;

(4) Any change in the quality or reliability of service associated with the proposed transaction, including the level of reserves to be maintained, is not expected to be detrimental to the electric utility's retail customers, shareholders, or employees;

(5) The rate design of the proposed power purchase agreement and the proposed method of allocating costs and revenues of the affiliate to the proposed power purchase agreement are just and reasonable;

(6) The proposed transaction is not likely to result in the electric utility being unable to provide its tariffed services in a safe and reliable manner;

(7) As required pursuant to the National Energy Policy Act, 15 U.S.C. 79z-5a, the proposed reorganization or transaction will benefit consumers, is in the public interest and does not violate state law; and

(8) As required pursuant to the National Energy Policy Act, 15 U.S.C. 79z-5a, the purchased power agreement will benefit consumers, does not violate any state law, is in the public interest and would not provide the exempt wholesale generator any unfair competitive advantage by virtue of its affiliation or association with the electric utility.

4. Any hearing initiated by the commission into a transaction allowed pursuant to subsection 1 of this section shall be completed, and the commission's final order approving or prohibiting the proposed transaction shall be entered, within two hundred seventy days after the date the electric utility's application was filed, unless the electric utility had a general rate proceeding pending at the time the application was filed in which case the commission's final order approving or prohibiting the proposed transaction may be entered on the date that an order is entered in that general rate proceeding, but in no event shall the final order approving or prohibiting the proposed transaction be entered later than three hundred days after the application was filed. In any proceeding conducted by the commission pursuant to subsections 1 to 3 of this section, intervention shall be limited to parties with a direct interest in the transaction which is the subject of the hearing and the office of public counsel. Parties with such a direct interest shall include retail customers that meet the criteria set forth in

subsection 3 of section 393.969 and are eligible to arrange for dedicated power supplies to be acquired and delivered by the electric utility to the retail customer under the tariff required by subsection 2 of section 393.969. The commission shall not in any subsequent proceeding, or otherwise, review a reorganization or other transaction authorized by this section. However, nothing in sections 393.960 to 393.981 shall be construed to limit the commission's authority, if any, to review issues relating to market power and order remedies in future proceedings related to industry restructuring.

5. Notwithstanding the requirements of sections 393.190, 393.200, 393.210, 393.240 and 393.250 or any other provision of sections 393.960 to 393.981, or chapter 386, RSMo, or this chapter, or any rule, regulation or order of the commission that would require such approval, no commission approval shall be required for the sale, assignment, lease or other disposition, including but not limited to a transfer of control, of transmission facilities by an electric utility to an affiliated or unaffiliated regional transmission organization or similar entity that is subject to the jurisdiction of the Federal Energy Regulatory Commission when such sale, lease or other disposition has been approved by the Federal Energy Regulatory Commission. Nothing in this section shall be construed as limiting the commission's authority to determine which facilities are appropriately classified as transmission facilities.

6. An affiliate of an electric utility that acquires generation plant and generation-related assets pursuant to this section shall not directly or indirectly subsequently transfer any such generation assets that were acquired pursuant to this section to an unaffiliated entity without first seeking and obtaining the approval of the commission as provided in this subsection. Such approval may be obtained by filing a notice of the proposed sale or transfer with the commission. The notice shall contain an analysis of the effects of such transfer on the availability of power and any charges to be paid by the electric utility under any purchase power agreement that is still in effect and a list of all federal approvals or approvals required from departments and agencies of this state, other than the commission, that the affiliate has or will obtain before implementing the transfer. The commission may, after notice and hearing, prohibit the proposed transaction only if it finds that the proposed transaction is likely to result in higher costs for the electric utility than it would incur in the absence of the proposed transaction, or that the proposed transaction is likely to result in a change in the quality or reliability of service that is expected to be detrimental to the electric utility's retail customers, shareholders, or employees. If the commission has not issued an order initiating a hearing on the proposed transaction within thirty days after the date the affiliate's notice is filed, the transaction shall be deemed approved. In any proceeding conducted by the commission pursuant to this section, intervention shall

be limited to parties with a direct interest in the transaction which is the subject of the hearing and the office of public counsel. Parties with such a direct interest shall include retail customers that meet the criteria set forth in subsection 3 of section 393.969 and are eligible to arrange for dedicated power supplies to be acquired and delivered by the electric utility to such retail customer under the tariff required by subsection 2 of section 393.969. Any hearing initiated by the commission into the proposed transaction shall be completed, and the commission's final order approving or prohibiting the proposed transaction shall be entered, within one hundred eighty days after the date the electric utility's notice was filed.

7. It is the intent of the general assembly that the generation plant and generation-related assets transferred pursuant to and under the circumstances described in this section be allowed to be eligible facilities as defined in the National Energy Policy Act, 15 U.S.C. 79z-5a. Operation of such generation plant by exempt wholesale generators and sales by such an exempt wholesale generator to its affiliated electric utility under the criteria outlined above does not violate any provision of state law and is intended to benefit consumers and promote the public interest by helping to secure reliable sources of supply for retail consumers now and in the future at a reasonable cost. Thus, in any order approving a transfer pursuant to this section the commission shall also include the findings required by section 15 U.S.C. 79z-5a both to allow the transferred facilities to be eligible facilities and for entry into the purchase power agreement required by this section. The commission and office of public counsel may intervene and present testimony in rate cases or other proceedings before the Federal Energy Regulatory Commission that involve the electric utility, the affiliate, or any power purchase agreement entered into pursuant to this section, as may be necessary to protect the public interest and ensure that the goals and objectives stated above are met. With respect to any such proceeding the commission may petition the Federal Energy Regulatory Commission to hold public hearings in Missouri, and may itself hold such public hearings to inform itself as to the public views on the issues to be heard.

8. The provisions of section 386.370, RSMo, sections 393.130, 393.135, 393.140, 393.150, 393.155, 393.170, 393.180, 393.190, 393.200, 393.210, 393.220, 393.230, 393.240, 393.250, 393.275 and 393.280, and subsections 2 to 5 of section 393.270 shall not apply to exempt wholesale generators as defined in 15 U.S.C. 79z-5a.

393.969. 1. In any ratemaking proceeding before the commission where the cost of service is based in part on a purchase power agreement that has been entered into by the electric utility pursuant to section 393.966 and allowed into effect but not approved by a final order of the Federal Energy Regulatory Commission, the

commission may, in a special proceeding held for that purpose or in a rate proceeding under section 393.150, provide for an equitable adjustment to be subsequently made in the electric utility's rates, which may include a prospective adjustment in rates, if a refund of the amounts paid by the electric utility under the purchase power agreement that was allowed into effect and that served as the basis for a rate order entered by the commission is ultimately ordered by the Federal Energy Regulatory Commission.

2. An electric utility that has filed a notice to transfer all or substantially all or an allocated portion of its generation plant and generation-related assets pursuant to section 393.966 shall file with the commission, at the same time as it files such notice, a tariff that enables retail customers that meet the criteria stated in subsection 3 of this section to arrange for dedicated power supplies to be acquired and delivered by the utility to the retail customer as set forth in subsection 4 of this section. The tariff shall include the provisions identified in subsection 4 of this section and such other provisions as are deemed necessary for the safe and reliable operation of the interconnected electric transmission system. The tariff shall provide for an effective date of such date as the electric utility's reorganization or transfer of assets pursuant to section 393.966 is completed. An affiliate of the electric utility shall be allowed to contract for the provision of such dedicated power supplies under the same terms and conditions applicable to other participating suppliers. The commission may review the tariff required by this subsection and may, following notice and hearing, modify such tariff to ensure conformance with this section before or following its effective date, but shall allow such tariff to take effect on the effective date if the commission's investigation is not complete.

3. A retail customer served by an electric utility that files a tariff as required by subsection 2 of this section shall be eligible to take service under such tariff if the retail customer has a megawatt demand interval meter installed on its premises or will have such a meter installed prior to taking service under such tariff, and either the electric utility provides electric utility service to more than one million retail customers in this state and the retail customer has a maximum hourly electric demand at its premises of one megawatt or more, or the electric utility provides service to less than one million retail customers in this state and the retail customer has a maximum hourly electric demand at its premises of two megawatts or more. The maximum hourly electric demand required by this subsection shall be measured over the most recent twelve-month calendar period for which data is available at the time of election. Those retail customers that are eligible to take service under such tariff may aggregate loads with other retail customers that are also eligible to take such service for the purpose of arranging for power supplies under that tariff. Retail customers that choose to take

service under the tariff required by subsection 2 of this section must take service under such tariff for all of the electric load at their premises that is served by the electric utility.

4. A tariff filed pursuant to subsection 2 of this section shall include:

(1) A requirement that any participating supplier of electric power and energy be registered with the commission as provided in section 393.981;

(2) A requirement that the participating supplier enter into a power supply agreement, which shall include commercially-reasonable terms for credit and collection with respect to such participating supplier's obligations under such agreement, with the electric utility for the power and energy that will be purchased by the electric utility and then delivered to the retail customer under the tariff and arrange for all applicable transmission and control area services;

(3) A requirement that the participating supplier provide to the electric utility, in electronic form, the data necessary for billing customers taking service under the tariff required by subsection 2 of this section in the format specified by the utility;

(4) The circumstances under which retail customers taking service under the tariff required by subsection 2 of this section may take service under the utility's other tariffs, which may at the utility's option include a notice period of up to thirty days prior to any change, a term of service of at least one year or more for any return to the utility's other tariffed services, a provision that a retail customer may elect service under the tariff required by subsection 2 of this section and return to the electric utility's other tariffed services only one time prior to December 31, 2006, and may not return to the electric utility's other tariffed services after December 31, 2006, and if the electric utility serves less than one hundred fifty thousand retail customers in this state, a prohibition against a customer that elects service under the tariff required by subsection 2 of this section returning to the electric utility's tariffed service after such election; and

(5) A provision that allows a retail customer taking service under the tariff required by subsection 2 of this section to procure power and energy directly from the electric utility on a temporary basis in the event that the customer's dedicated source of supply under the tariff required by subsection 2 of this section fails, the electric utility is able to procure a temporary source of supply and the customer is not eligible to, or chooses not to, return to the utility's other tariffed services; and requires the retail customer to pay to the electric utility all of the costs it incurs in providing the temporary supply service to the retail customer, including a reasonable broker's fee to compensate the utility for the service of arranging such supply;

(6) Charges for distribution service and, where applicable, transmission or

control area services provided to such retail customers, and decommissioning charges. The charges for distribution services shall be based upon: the electric utility's direct and indirect costs of providing unbundled distribution service, including the electric utility's then-current cost of capital; implementation costs; existing regulatory assets, without regard to whether or not such regulatory assets are distribution-related; and billing and metering costs associated with service under the tariff required by subsection 2 of this section and shall also include decommissioning costs where such costs are not recovered through a separate, unbundled charge. However, the amount to be recovered for existing regulatory assets that are not distribution related in the unbundled distribution charges for distribution service that are included in any tariff required under subsection 2 of this section shall be based on the same allocation methods as are used in setting other tariffed rates and if filed by an electric utility that provides electric service to more than one million customers in this state shall not exceed .06 cents per kilowatthour for the first ten years, or .04 cents per kilowatthour for the next twenty years that such tariff is in effect. If the amount of nondistribution related existing regulatory assets so allocated exceeds the amounts specified in the preceding sentence, the remainder shall not be allocated to any other customer class or service. Transmission and control area services shall be provided at the same prices, terms and conditions set forth in the electric utility's applicable tariff as approved or allowed into effect by the Federal Energy Regulatory Commission.

5. Retail customers receiving service under the tariff required by subsection 2 of this section shall pay to the electric utility a basic rate consisting of the applicable distribution service charges, transmission service or control area service charges, decommissioning charges, contract rates for power provided by the retail customer's dedicated supplier or where such power is not provided, the costs for temporary supply as set forth in subdivision (5) of subsection 4 of this section and applicable taxes, franchise fees or similar charges. The electric utility shall apply any partial payments received on bills sent to retail customers receiving service under the tariff required by subsection 2 of this section first to the charges for distribution service and decommissioning and next to transmission service. In all other respects, the electric utility's other procedures for credit, collection and disconnection shall apply to such retail customers.

6. The electric utility may, with the consent of a retail customer, issue bills and receive payment in electronic format and shall not in such instance be required to issue a duplicate paper bill. The commission may, pursuant to subsection 6 of section 386.250, RSMo, adopt rules and regulations governing electronic billing and payment, but its failure to do so shall not preclude any customer from requesting, and the electric utility

from providing, electronic billing and payment.

7. The commission shall prior to December 31, 2001, adopt rules to protect the confidentiality of the data provided by participating suppliers to the utility pursuant to this section.

8. An electric utility may, at its discretion, conduct one or more experiments for the provision or billing of services on a consolidated or aggregated basis, for the provision of real-time pricing or other billing or pricing experiments and may include experimental programs offered to groups of retail customers possessing common attributes, as defined by the electric utility, such as the members of an organization that was established to serve a well-defined industry group, companies having multiple sites, or closely located or affiliated buildings, provided that such groups exist for a purpose other than obtaining energy services. The offering of such a program by an electric utility to retail customers participating in the program and the participation by those customers in the program shall not create any right in any other retail customer or group of customers to participate in the same or a similar program. No such experiment shall, however, limit a customer's choice of supplier under the tariff required by subsection 2 of section 393.969, or provide for a discount of rates for transmission, control area, or distribution service. No such experiment shall be in effect for more than five years unless the commission enters an order approving an extended term. The commission shall allow such experiments to go into effect upon the filing by the electric utility of a statement describing the program and shall not otherwise regulate the rates, terms or conditions associated with an experimental program but may require that the utility file annual reports detailing the costs and effects of such experiments. In reviewing or establishing rates for an electric utility pursuant to section 393.150 the commission shall exclude the costs, revenues and usage that are associated with a billing and pricing experiment that is conducted pursuant to this subsection.

9. The commission shall have jurisdiction over a heating company serving only commercial customers in an area served by an electric utility with a tariff in effect pursuant to subsection 2 of section 393.969 for purposes of safety only. Such a heating company may establish and change rates and conditions of service without the approval of the commission.

393.972. In the event of a sale, purchase, or any other transfer of ownership pursuant to section 393.966 of one or more Missouri divisions or business units or generating stations or generating units, the electric utility's contract or agreements with the acquiring entity shall require that the entity or persons hire a sufficient number of nonsupervisory employees to operate and maintain the stations, division or

unit by initially making offers of employment to those nonsupervisory employees of the electric utility's division, business unit, generating station or generating unit as are needed to fill the positions needed at no less than the wage rates and substantially equivalent fringe benefits and terms and conditions of employment that are in effect at the time of transfer of ownership of said division, business unit, generating station or generating units, and such wage rates and substantially equivalent fringe benefits and terms and conditions of employment shall continue for at least thirty months from the time of such transfer of ownership unless the parties mutually agree to different terms and conditions of employment within that thirty-month period. The utility shall offer a transition plan to those nonsupervisory employees who are not offered jobs by the acquiring entity because that entity has a need for fewer workers. If there is litigation concerning the sale or other transfer of ownership of the electric utility's divisions, business units, generating station, or generating units, the thirty-month period will begin on the date the acquiring entity or persons take control or management of the divisions, business units, generating station or generating units of the electric utility.

393.975. Each electric utility owning an interest in, or retaining responsibility as a matter of contract or statute for, the decommissioning costs of one or more nuclear power plants and which is transferring or has transferred its interest in such plants pursuant to section 393.966 shall recover such costs through unbundled charges or through the electric utility's bundled rates and shall deposit all amounts collected for decommissioning in its nuclear power plant decommissioning trust fund.

393.981. 1. Any supplier that will be delivering electricity to an electric utility pursuant to the tariff described in section 393.969 shall first register with the commission by filing a written statement of its intent to deliver such electricity and must maintain such registration in order to continue delivering electricity to the electric utility pursuant to such tariff.

2. A supplier that is registering with the commission shall provide the following information and update such information when and as requested by the commission:

(1) Corporate name, address and most recent annual report;

(2) The name and address of any affiliate of the applicant that is engaged in the provision of electric supply service, transmission service, distribution service or public utility service similar to traditional utility services in this or any other state;

(3) A bond or other demonstration of financial capability to satisfy potential claims or expenses that can reasonably be anticipated to occur as part of the applicant's operations under its certificate, including a failure to honor contractual commitments. The adequacy of the bond or demonstration shall be determined by the commission from time to time. In determining the adequacy of the bond or

demonstration, the commission shall consider the extent of the services to be offered, the size of the applicant and the size of the load to be served, with the objective of ensuring that the commission's financial requirements do not unreasonably erect barriers to participation;

(4) A description of the applicant's technical, financial and managerial resources and abilities to comply with all applicable federal, state, regional and industry statutes, rules, policies, practices and procedures for the provision of supply and for the use, operation and maintenance of the safety, integrity and reliability of the interconnected electric transmission system; and

(5) Evidence that the applicant has an office in this state and an agent for service of process.

3. The commission may require periodic updates to the information required by this section and may revoke the registration of any supplier that fails to provide such updates or is found by the commission, after notice and hearing, to not possess the financial, technical or managerial abilities to meet its contractual commitments or comply with all applicable federal, state, regional and industry statutes, rules, policies, practices and procedures for the use, operation and maintenance of the safety, integrity and reliability of the interconnected electric transmission system or is found to be pricing below cost or market so as to avoid any license tax, franchise fee, sales tax or similar tax or charge that would otherwise apply to charges billed by the electric utility.

4. On or before January 1, 2002, the commission shall adopt rules setting forth in detail the form and required contents for the written statement of intent required for registration and may as part of such rule assess a fee for registration sufficient to cover its administrative costs, expenses and equipment associated with implementing this section.

640.887. 1. This section shall be known and may be cited as the "Consumer Clean Energy Act".

2. As used in this section, the following terms mean:

(1) "Commission", the public service commission of the state of Missouri;

(2) "Customer-generator", the owner or operator of a qualified net metering unit;

(3) "Local distribution system", any system for the distribution section of electric energy to the ultimate consumer thereof, regardless of whether the owner or operator of such system is also an electric supplier;

(4) "Net energy metering", a measurement of the difference between the electricity supplied to a customer-generator and the electricity generated by a customer-generator that is delivered to a local distribution section system at the same point of interconnection during a customer-generator's given billing period;

(5) "Qualified generation unit", a qualified net metering unit of a retail electric supplier;

(6) "Qualified net metering unit", an electric generation unit which:

(a) Is a hydrogen fuel cell or is powered by sun, wind or biomass;

(b) Has an electrical generating system with a capacity of not more than one hundred kilowatts per day;

(c) Is located on the premises that are owned, operated, leased or otherwise controlled by the customer-generator;

(d) Is interconnected and operates in parallel with a retail electric supplier; and

(e) Is intended primarily to offset part or all of the customer-generator's own electrical requirements;

(7) "Retail electric supplier" or "supplier", any person that sells electric energy to the ultimate consumer thereof.

3. By August 28, 2002, each retail electric supplier shall comply with and shall notify all of its retail customers not less frequently than quarterly of each of the following requirements:

(1) The supplier shall make available on a first-come first-served basis, either directly or through a local distribution company or other third party, to each customer-generator that has installed a qualified net metering unit that notifies the supplier of the unit's generating capacity, an electric energy meter capable of net metering if the customer-generator's existing electrical meter cannot perform net metering; and

(2) Rates, charges, conditions and contract terms for the sale of electric energy, including minimum monthly fees, shall be the same as those which apply to persons who are not customer-generators. Any retail electric supplier or local distribution company may, at its own expense, install one or more additional electric energy meters to monitor the flow of electricity in either direction, to reflect the time of generation or both. Whenever a customer-generator with a qualified net metering unit uses any energy generation system entitled to credits under a federal minimum renewable energy generation requirement, the total amount of energy generated by that system shall be treated as generated by the retail electric supplier for purposes of such requirement.

4. Each retail electric supplier shall calculate the net energy measurement for a customer-generator using a qualified net metering unit in the following manner:

(1) The retail electric supplier shall measure the net electricity produced or consumed during each billing period using an electric energy meter capable of such a function;

(2) If the electricity supplied by the retail electric supplier exceeds the electricity generated by the customer-generator during a billing period, then the customer-

generator shall be billed for the net electricity supplied by the retail electric supplier in accordance with normal metering practices; and

(3) If electricity generated by the customer-generator exceeds the electricity supplied by the retail electric supplier, then the customer-generator:

(a) Shall be billed for the appropriate customer charges for that billing period;

(b) Shall be credited for the excess electric energy generated during the billing period, with this credit appearing on the bill for the following billing period, except for a billing period that ends in the next calendar year; and

(c) Shall not be charged for transmission losses.

The credit shall be based on the retail rates for sale by the retail electric supplier during the month of generation. At the beginning of each calendar year, any remaining unused kilowatt-hour credit accumulated by a customer-generator during the previous year shall be credited to low-income customers of the electric company in an amount equal to the avoided cost of the retail electric supplier, pursuant to procedural regulations adopted by the department of social services.

5. A local distribution company which is a retail electric supplier shall not be required to provide net metering service with respect to additional customer-generators after the date during any calendar year on which the total generating capacity of all customer-generators with qualified generation facilities and qualified net metering units served by that local distribution company is equal to or in excess of one percent of the capacity necessary to meet the company's average forecasted aggregate customer peak demand for that calendar year.

6. Each retail electric supplier shall maintain and make available to the public records of the total generating capacity of customer-generators of the local distribution system that are using net metering, the type of generating systems and energy source used by the electric generating systems which customer-generators use. Each such retail electric supplier shall notify the commission when the total generating capacity of such customer-generators is equal to or in excess of one percent of the capacity necessary to meet the supplier's aggregate customer peak demand during the previous calendar year.

7. Each qualified generation unit and qualified net metering unit used by a customer-generator shall meet all applicable safety, performance, interconnection and reliability standards established by the National Electrical Code, the Institute of Electrical and Electronics Engineers, and Underwriters Laboratories.

8. No retail electric supplier shall require a customer-generator whose qualified net metering unit meets the standards of subsection 7 of this section to install additional controls, perform or pay for additional tests, or purchase additional liability insurance.

9. Applications by a customer-generator for interconnection to the distribution system shall be reviewed and responded to by the retail electric supplier within thirty days. If the application for interconnection is approved by the retail electric supplier, the retail electric supplier shall complete the interconnection within fifteen days, unless a later date is mutually agreeable to both the customer-generator and the retail electric supplier.

10. At the election of the owner or operator of a qualified generation unit or net metering unit concerned, connections meeting the models standard promulgated pursuant to subsection 11 of this section may be made:

(1) By such owner or operator at such owner's or operator's expense; or

(2) By the owner or operator of the local distribution system upon the request of the owner or operator of the qualified generating unit or qualified net metering unit and pursuant to an offer by the owner or operator of such a unit to reimburse the local distribution system in an amount equal to the minimum cost of such connection, consistent with the procurement performed by a qualified licensed electrical person.

11. The commission, in consultation with the department of natural resources, shall promulgate regulations insuring that simplified contracts will be used for the interconnection of electric energy transmission or distribution systems and generating facilities that have a power production capacity not greater than one hundred kilowatts.

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