

FIRST REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]
CONFERENCE COMMITTEE SUBSTITUTE FOR
HOUSE SUBSTITUTE FOR
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SENATE BILL NO. 555

92ND GENERAL ASSEMBLY

2003

1791S.12T

AN ACT

To repeal section 91.030, RSMo, and to enact in lieu thereof two new sections relating to the supply of electrical power and energy to aluminum smelting facilities, with an emergency clause.

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

Section A. Section 91.030, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 91.026 and 91.030, to read as follows:

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

- (1) "Commission", the Missouri public service commission;**
- (2) "Aluminum smelting facility", a facility whose primary industry is the smelting of aluminum and primary metals, Standard Industrial Classification Code 3334, is located in a county of the second classification, which has used over three million megawatt hours of electricity during a calendar year, and has had electrical service provided to said facility in the past, in part or whole, by a municipally owned utility and, in part or whole, by an electric generating cooperative owned by rural electric cooperatives;**
- (3) "Delivery services", transmission, distribution, or metering of electric power and energy or services ancillary thereto or related services;**
- (4) "Municipally owned utility", a utility as defined in subdivision (1) of**

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

subsection 1 of section 91.025;

(5) "Local electric service utility", an electrical corporation engaged in the furnishing of local electric service to consumers under a certificate of convenience and necessity issued by the commission, any municipal electric distribution system or electric cooperative.

2. Notwithstanding any provisions of law to the contrary, any aluminum smelting facility shall have the right to purchase and contract to purchase electric power and energy and delivery services from any provider, wherever found or located, at whatever rates or charges as contracted for, and such periods or times as is needed or necessary or convenient for the operation of such aluminum smelting facility and for no other purpose, notwithstanding any past circumstances of supply. Any aluminum smelting facility purchasing or contracting to purchase electric power and energy pursuant to this section shall not resell such electric power and energy to any party except the original providers of such electric power and energy.

3. Notwithstanding the provisions of section 91.025, section 393.106, RSMo, and section 394.315, RSMo, to the contrary, any provider of such electric power and energy and delivery services, whether or not otherwise under Missouri regulatory jurisdiction, shall have the right to transact for and sell electric power and energy and delivery services to an aluminum smelting facility. Any transactions or contracts pursuant to this section for electric power and energy and delivery services shall not be subject to the jurisdiction of the commission with regard to the determination of rates.

4. When current electric power and energy is being supplied in part or in whole by a municipally owned utility and in part or whole by an electric generating cooperative owned by rural electric cooperatives and not under any contract authorized pursuant to this section, a replacement contract pursuant to the provisions of subsections 2 and 3 of this section shall provide for all of the electric power and energy and delivery services requirements of the aluminum smelter and shall meet the following criteria:

(1) The aluminum smelting facility's change of supplier shall have no negative financial impact on any past supplier or suppliers or to other electricity customers of such supplier or suppliers;

(2) The supply arrangements made by the aluminum smelting facility when operated in coordination with the local electric infrastructure shall not reduce the reliability of service to other customers or the safety of any person;

(3) The aluminum smelting facility's change of electric supplier shall not cause a reduction in tax revenue to the state of Missouri or any political subdivision;

(4) No billing or metering functions of any municipally owned utility will be changed or affected as a result of a change of electric supplier by such aluminum smelting facility.

5. No local electric service utility provider of electric power and energy or delivery services shall have any obligation to supply or deliver backup, peaking or emergency power to a aluminum smelting facility exercising its rights under this section, nor liability for inability or failure to provide such power, except as may be established by written contract.

6. Once an aluminum smelting facility has purchased electric power pursuant to its rights pursuant to this section, no past supplier of energy and related services shall have any obligation to provide electric power and energy and delivery services to such aluminum smelting facility except as may be established by written contract.

7. The provisions of this section recognize highly unique circumstances of aluminum smelting facilities and are not to be interpreted as condoning or conceding the suitability of retail electric restructuring for any customer or class of customers in the state of Missouri.

91.030. Any city, town or village in this state, having authority to maintain and operate an electric light and power plant, may procure electric current **and ancillary services** for that purpose from any other city, owning and operating such plant, **or other lawful supplier** and to that end may enter into a contract therefor with such city **or other supplier** having such plant **for such period and upon such terms as may be agreed by the contracting parties solely on the approval by the governing board or council of such municipality owned or operated electric power system or by its duly authorized representative without further regulatory or public approval, notwithstanding any provisions of law to the contrary.**

Section B. Because immediate action is necessary in order to ensure the continued operation of certain aluminum smelting facilities in this state, section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and section A of this act shall be in full force and effect upon its passage and approval.