

FIRST REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]
CONFERENCE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR

SENATE BILL NO. 48

96TH GENERAL ASSEMBLY

2011

0251S.06T

AN ACT

To repeal sections 250.236, 386.420, 386.490, 386.510, 386.515, 386.520, 386.530, 386.540, and 393.015, RSMo, and to enact in lieu thereof eleven new sections relating to utilities, with an emergency clause for certain sections.

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

Section A. Sections 250.236, 386.420, 386.490, 386.510, 386.515, 386.520, 2 386.530, 386.540, and 393.015, RSMo, are repealed and eleven new sections 3 enacted in lieu thereof, to be known as sections 250.236, 386.420, 386.490, 4 386.510, 386.515, 386.520, 386.530, 386.540, 393.015, 393.152, and 620.2300, to 5 read as follows:

250.236. 1. Any city, town or village may contract with a private or public 2 water company to terminate water services, at the direction of the city, because 3 a customer fails to pay his sewer bill. When charges for sewer services are in 4 arrears for more than three months and after the city sends notice to the 5 customer [by certified mail], the city may disconnect the customer's sewer line or 6 request in writing that the private or public water company discontinue water 7 service until such time as the sewer charges and all related costs are paid.

8 2. A private or public water company acting pursuant to a written request 9 from the city as provided in subsection 1 of this section is not liable for damages 10 related to termination of water services. All costs related to disconnection and 11 reconnections shall be reimbursed to the private water company by the city.

386.420. 1. At the time fixed for any hearing before the commission or a 2 commissioner, or the time to which the same may have been continued, the 3 complainant, the public counsel and the corporation, person or public utility

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

4 complained of, and such corporations and persons as the commission may allow
5 to intervene, shall be entitled to be heard and to introduce evidence. The
6 commission shall issue process to enforce the attendance of all necessary
7 witnesses.

8 2. Whenever an investigation shall be made by the commission, it shall
9 be its duty, to make a report in writing in respect thereto, which shall state the
10 conclusions of the commission, together with its decision, order or requirement
11 in the premises. The commission or any commissioner or any party may, in any
12 investigation or hearing before the commission, cause the deposition of witnesses
13 residing within or without the state to be taken in the manner prescribed by law
14 for like depositions in civil actions in the circuit courts of this state and to that
15 end may compel the attendance of witnesses and the production of books,
16 waybills, documents, papers, memoranda and accounts. Witnesses whose
17 depositions are taken as provided in this section and the officer taking the same
18 shall severally be entitled to the same fees as are paid for like services in the
19 circuit courts of this state.

20 3. If an order cannot, in the judgment of the commission, be complied with
21 within thirty days, the commission may grant and prescribe such additional time
22 as in its judgment is reasonably necessary to comply with the order, and may, on
23 application and for good cause shown, extend the time for compliance fixed in its
24 order.

25 4. A full and complete record shall be made of all proceedings before the
26 commission or any commissioner on any formal hearing had, and all testimony
27 shall be taken down by a reporter appointed by the commission, and the parties
28 shall be entitled to be heard in person or by attorney. Preparation of a printed
29 transcript may be waived by unanimous consent of all the parties. In case of an
30 action to review any order or decision of the commission, a transcript of such
31 testimony, together with all exhibits or copies thereof introduced and all
32 information secured by the commission on its own initiative and considered by it
33 in rendering its order or decision, and of the pleadings, record and proceedings
34 in the cause, shall constitute the record of the commission; provided, that on
35 review of an order or decision of the commission, the [petitioner] **appellant** and
36 the commission may stipulate that a certain question or questions alone and a
37 specified portion only of the evidence shall be certified to the [circuit] **reviewing**
38 court for its judgment, whereupon such stipulation and the question or questions
39 and the evidence therein specified shall constitute the record on review. **In any**
40 **proceeding resulting in the establishment of new rates for a public**
41 **utility that is not classified as a price-cap or competitive company, the**

42 **commission shall cause to be prepared, with the assistance of the**
43 **parties to such proceeding, and shall approve, after allowing the**
44 **parties a reasonable opportunity to provide written input, a detailed**
45 **reconciliation containing the dollar value and rate or charge impact of**
46 **each contested issue decided by the commission, and the customer class**
47 **billing determinants used by the commission to calculate the rates and**
48 **charges approved by the commission in such proceeding. Such**
49 **information shall be sufficient to permit a reviewing court and the**
50 **commission on remand from a reviewing court to determine how the**
51 **public utility's rates and charges, including the rates and charges for**
52 **each customer class, would need to be temporarily and, if applicable,**
53 **permanently adjusted to provide customers or the public utility with**
54 **any monetary relief that may be due in accordance with the procedures**
55 **set forth in section 386.520. In the event there is any dispute over the**
56 **value of a particular issue or the correctness of a billing determinant,**
57 **the commission shall also include in the reconciliation a quantification**
58 **of the dollar value and rate or charge impact associated with the**
59 **dispute.**

386.490. 1. Every order of the commission shall be served upon every
2 person or corporation to be affected thereby, either by personal delivery of a
3 certified copy thereof, **by electronic service**, or by mailing a certified copy
4 thereof, in a sealed package with postage prepaid, to the person to be affected
5 thereby, or, in the case of a corporation, to any officer or agent thereof upon
6 whom a summons may be served in accordance with the provisions of the code of
7 civil procedure.

8 2. [It shall be the duty of every person and corporation to notify the
9 commission forthwith, in writing, of the receipt of the certified copy of every order
10 so served, and in the case of a corporation such notification must be signed and
11 acknowledged by a person or officer duly authorized by the corporation to admit
12 such service. Within a time specified in the order of the commission every person
13 and corporation upon whom it is served must if so required in the order notify the
14 commission in like manner whether the terms of the order are accepted and will
15 be obeyed.

16 3.] Every order or decision of the commission shall of its own force take
17 effect and become operative thirty days after the service thereof, except as
18 otherwise provided, and shall continue in force either for a period which may be
19 designated therein or until changed or abrogated by the commission, unless such
20 order be unauthorized by this law or any other law or be in violation of a

21 provision of the constitution of the state or of the United States.

21 **386.510. With respect to commission orders or decisions issued on**
22 **and after the effective date of this section,** within thirty days after the
23 application for a rehearing is denied, or, if the application is granted, then within
24 thirty days after the rendition of the decision on rehearing, the applicant may
25 [apply to] **file a notice of appeal with** the [circuit court of] **commission,**
26 **which shall also be served on the parties to the commission proceeding**
27 **in accordance with section 386.515, and which shall also be filed with**
28 **the appellate court with the territorial jurisdiction over** the county where
29 the hearing was held or in which the commission has its principal office [for a
30 writ of certiorari or review (herein referred to as a writ of review)] for the purpose
31 of having the reasonableness or lawfulness of the original order or decision or the
32 order or decision on rehearing inquired into or determined. [The writ shall be
33 made returnable not later than thirty days after the date of the issuance thereof,
34 and shall direct the commission to certify its record in the case to the court. On
35 the return day the cause shall be heard by the circuit court, unless for a good
36 cause shown the same be continued.] **Except with respect to a stay or**
37 **suspension pursuant to subsection 1 of section 386.520,** no new or
additional evidence may be introduced [upon the hearing] in the [circuit]
appellate court but the cause shall be heard by the court without the
intervention of a jury on the evidence and exhibits introduced before the
commission and certified to by it. **The notice of appeal shall include the**
appellant's application for rehearing, a copy of the reconciliation
required by subsection 4 of section 386.420, a concise statement of the
issues being appealed, a full and complete list of the parties to the
commission proceeding, and any other information specified by the
rules of the court. Unless otherwise ordered by the court of appeals,
the commission shall, within thirty days of the filing of the notice of
appeal, certify its record in the case to the court of appeals. The
commission and each party to the action or proceeding before the commission
shall have the right to [appear] **intervene and participate fully** in the review
proceedings. Upon the [hearing the circuit] **submission of the case to the**
court of appeals, the court of appeals shall [enter judgment] **render its**
opinion either affirming or setting aside, **in whole or in part,** the order or
decision of the commission under review. In case the order or **decision** is
reversed by reason of the commission failing to receive testimony properly
proffered, the court shall remand the cause to the commission, with instructions
to receive the testimony so proffered and rejected, and enter a new order or

38 **render a new decision** based upon the evidence theretofore taken, and such as
39 it is directed to receive. The court may, in its discretion, remand any cause which
40 is reversed by it to the commission for further action. No court in this state,
41 except [the circuit courts to the extent herein specified and] the supreme court
42 or the court of appeals [on appeal], shall have jurisdiction **or authority** to
43 review, reverse, correct or annul any order or decision of the commission or to
44 suspend or delay the executing or operation thereof, or to enjoin, restrain or
45 interfere with the commission in the performance of its official duties. The
46 [circuit] **appellate** courts of this state shall always be deemed open for the trial
47 of suits brought to review the orders and decisions of the commission as provided
48 in the public service commission law and the same shall **where necessary** be
49 tried and determined as suits in equity.

386.515. [Prior to August 28, 2001, in proceedings before the Missouri
2 public service commission, consistent with the decision of the supreme court of
3 Missouri in State ex rel. Anderson Motor Service Co., Inc. v. Public Service
4 Commission, 97 S.W.2d 116 (Mo. banc 1936) the review procedure provided for in
5 section 386.510 is exclusive to any other procedure.] **With respect to**
6 **commission orders or decisions issued on and after the effective date**
7 **of this section**, an application for rehearing is required to be served on all
8 parties and is a prerequisite to the filing of an [application for writ of review]
9 **appeal under section 386.510**. The application for rehearing puts the parties
10 to the proceeding before the commission on notice that [a writ of review] **an**
11 **appeal** can follow and any such review **under the appeal** may proceed [without
12 formal notification or summons to] **provided that a copy of the notice of**
13 **appeal is served on** said parties. **With respect to commission orders or**
14 **decisions issued** on and after [August 28, 2001] **the effective date of this**
15 **section**, the review procedure provided for in section 386.510 continues to be
16 exclusive except that a copy of [any such writ of review] **the notice of appeal**
17 **required by section 386.510** shall be [provided to] **served on** each party to
18 the proceeding before the commission[, or his or her attorney of record, by hand
19 delivery or by registered mail, and proof of such delivery or mailing shall be filed
20 in the case as provided by subsection 2 of section 536.110] **by the appellant**
21 **according to the rules established by the court in which the appeal is**
22 **filed**.

386.520. 1. The pendency of [a writ of review] **an appeal under section**
2 **386.510** shall not of itself stay or suspend the operation of the order or decision
3 of the commission, but [during the pendency of such writ, the circuit court in its
4 discretion may stay or suspend, in whole or in part, the operation of the

5 commission's order or decision. No order so staying or suspending an order or
6 decision of the commission shall be made by any circuit court otherwise than on
7 three days' notice and after hearing, and if the order or decision of the
8 commission is suspended the same shall contain a specific finding based upon
9 evidence submitted to the court and identified by reference thereto, that great or
10 irreparable damage would otherwise result to the petitioner and specifying the
11 nature of the damage. In case the order or decision of the commission is stayed
12 or suspended, the order or judgment of the court shall not become effective until
13 a suspending bond shall first have been executed and filed with, and approved by,
14 the circuit court, payable to the state of Missouri, and sufficient in amount and
15 security to secure the prompt payment, by the party petitioning for the review,
16 of all damages caused by the delay in the enforcement of the order or decision of
17 the commission, and of all moneys which any person or corporation may be
18 compelled to pay, pending the review proceedings, for transportation,
19 transmission, product, commodity or service in excess of the charges fixed by the
20 order or decision of the commission, in case such order or decision is sustained.

21 2. The circuit court, in case it stays or suspends the order or decision of
22 the commission in any manner affecting rates, fares, tolls, rentals, charges or
23 classifications, shall also by order direct the corporation, person or public utility
24 affected to pay into court, from time to time, there to be impounded until the final
25 decision of the case, or into some bank or trust company paying interest on
26 deposits, under such conditions as the court may prescribe, all sums of money
27 which it may collect from any corporation or person in excess of the sum such
28 corporation or person would have been compelled to pay if the order or decision
29 of the commission had not been stayed or suspended.

30 3. In case any circuit court stays or suspends any order or decision of the
31 commission lowering any rate, fare, toll, rental, charge or classification, upon the
32 execution and approval of said suspending bond, shall forthwith require the
33 corporation, person or public utility affected, under penalty of the immediate
34 enforcement of the order or decision of the commission, pending the review and
35 notwithstanding the suspending order, to keep such accounts, verified by oath,
36 as may, in the judgment of the court, suffice to show the amounts being charged
37 or received by such corporation, person or public utility, pending the review, in
38 excess of the charges allowed by the order or decision of the commission, together
39 with the names and addresses of the corporations and persons to whom
40 overcharges will be refundable in case the charges made by the corporation,
41 person or public utility, pending the review, be not sustained by the circuit court;
42 provided, that street railroad corporations shall not be required to keep a record

43 of the names and addresses of such persons paying such overcharge of fares, but
44 such street railroad corporations shall give to such persons printed receipts
45 showing such overcharges of fares, the form of such printed receipts to be
46 approved by the commission.

47 4. The court may, from time to time, require said party petitioning for a
48 review to give additional security on, or to increase, the said suspending bond,
49 whenever in the opinion of the court the same may be necessary to secure the
50 prompt payment of said damages or said overcharges.

51 5. Upon the decision of the circuit court, all moneys which the corporation,
52 person or public utility may have collected pending the appeal, in excess of those
53 authorized by such decision, together with interest, in case the court ordered the
54 deposit of such moneys in a bank or trust company, shall be promptly paid to the
55 corporations or persons entitled thereto, in such manner and through such
56 methods of distribution as may be prescribed by the court, unless an appeal be
57 granted such corporation, person or public utility, as herein provided] **with**
58 **respect to commission orders or decisions issued on and after the**
59 **effective date of this section that do not involve the establishment of**
60 **new rates and charges for a public utility, the appellate court may in**
61 **its discretion, or upon the recommendation of a special master**
62 **appointed for such purpose, and after the posting of an appropriate**
63 **appeal bond, stay or suspend the operation of the order or decision of**
64 **the commission, in whole or in part, if in its discretion it determines**
65 **that great or irreparable damage would otherwise result to the**
66 **appellant.**

67 2. **With respect to orders or decisions issued on and after the**
68 **effective date of this section that involve the establishment of new rates**
69 **or charges for public utilities that are not classified as price-cap or**
70 **competitive companies, there shall be no stay or suspension of the**
71 **commission's order or decision, however:**

72 (1) **In the event a final and unappealable judicial decision**
73 **determines that a commission order or decision unlawfully or**
74 **unreasonably decided an issue or issues in a manner affecting rates,**
75 **then the court shall instruct the commission to provide temporary rate**
76 **adjustments and, if new rates and charges have not been approved by**
77 **the commission before the judicial decision becomes final and**
78 **unappealable, prospective rate adjustments. Such adjustments shall be**
79 **calculated based on the record evidence in the proceeding under**
80 **review and the information contained in the reconciliation and billing**

81 determinants provided by the commission under subsection 4 of section
82 386.420 and in accordance with the procedures set forth in subdivisions
83 (2) to (5) of this subsection;

84 (2) If the effect of the unlawful or unreasonable commission
85 decision issued on or after the effective date of this section was to
86 increase the public utility's rates and charges in excess of what the
87 public utility would have received had the commission not erred or to
88 decrease the public utility's rates and charges in a lesser amount than
89 would have occurred had the commission not erred, then the
90 commission shall be instructed on remand to approve temporary rate
91 adjustments designed to flow through to the public utility's then
92 existing customers the excess amounts that were collected by the utility
93 plus interest at the higher of the prime bank lending rate minus two
94 percentage points or zero. Such amounts shall be calculated for the
95 period commencing with the date the rate increase or decrease took
96 effect until the earlier of the date when new rates and charges
97 consistent with the court's opinion became effective or when new rates
98 or charges otherwise approved by the commission as a result of a
99 general rate case filing or complaint became effective. Such amounts
100 shall then be reflected as a rate adjustment over a like period of
101 time. The commission shall issue its order on remand within sixty days
102 unless the commission determines that additional time is necessary to
103 properly calculate the temporary or any prospective rate adjustment,
104 in which case the commission shall issue its order within one hundred
105 and twenty days;

106 (3) If the effect of the unlawful or unreasonable commission
107 decision was to increase the public utility's rates and charges by a
108 lesser amount than what the public utility would have received had the
109 commission not erred or to decrease the public utility's rates and
110 charges in a greater amount than would have occurred had the
111 commission not erred, then the commission shall be instructed on
112 remand to approve temporary rate adjustments designed to allow the
113 public utility to recover from its then existing customers the amounts
114 it should have collected plus interest at the higher of the prime bank
115 lending rate minus two percentage points or zero. Such amounts shall
116 be calculated for the period commencing with the date the rate
117 increase or decrease took effect until the earlier of the date when new
118 permanent rates and charges consistent with the court's opinion

119 became effective or when new permanent rates or charges otherwise
120 approved by the commission as a result of a general rate case filing or
121 complaint became effective. Such amounts shall then be reflected as a
122 rate adjustment over a like period of time. The commission shall issue
123 its order on remand within sixty days unless the commission
124 determines that additional time is necessary to properly calculate the
125 temporary or any prospective rate adjustment, in which case the
126 commission shall issue its order within one hundred and twenty days;

127 (4) If the effect of the unlawful or unreasonable commission
128 decision was to allocate too much of a rate increase or too little of a
129 rate decrease to a customer class or classes, then the commission shall
130 be instructed on remand to approve temporary rate adjustments for
131 each customer class as necessary to ensure that each customer class is
132 charged the amounts that would have been charged had the commission
133 not erred. Such amounts shall be calculated for the period commencing
134 with the date the rate increase or decrease took effect until the earlier
135 of the date when new rates and charges consistent with the court's
136 opinion became effective or when new rates or charges otherwise
137 approved by the commission as a result of a general rate case filing or
138 complaint became effective. Such amounts shall then be reflected as a
139 rate adjustment over a like period of time. The commission shall issue
140 its order on remand within sixty days unless the commission
141 determines that additional time is necessary to properly calculate the
142 temporary or any prospective rate adjustment, in which case the
143 commission shall issue its order within one hundred and twenty days;

144 (5) On and after the effective date of this section, no action
145 affecting the public utility's collection of rates and charges shall be
146 taken in cases where the court cannot make a determination on the
147 merits because the commission failed to include adequate findings of
148 fact to support the commission's decision or failed to receive evidence
149 properly proffered, provided that the commission shall provide such
150 findings of fact or otherwise issue a new order within ninety days of
151 the date of the court's mandate. If such new order is appealed, the
152 period for measuring amounts subject to temporary rate adjustments
153 process set forth in subdivisions (1) to (4) of this subsection shall
154 commence beginning with the date the rate increase or decrease took
155 effect.

386.530. All actions or proceedings under this or any other chapter, and

2 all actions and proceedings commenced or prosecuted by order of the commission,
3 and all actions and proceedings to which the commission, the public counsel or
4 the state may be parties, and in which any question arises under this or any
5 other chapter, or under or concerning any order or decision or action of the
6 commission, shall be preferred over all other civil causes except election contests
7 in all the [circuit] **appellate** courts of the state of Missouri, and shall be heard
8 and determined in preference to all other civil business pending therein except
9 election contests, irrespective of position on the calendar. The same preference
10 shall be granted upon application of the public counsel or the commission counsel
11 in any action or proceeding in which either or both may be allowed to intervene.

386.540. 1. The commission and any party, including the public counsel,
2 who has participated in the [commission] **court of appeals** proceeding [which
3 produced the order or decision may, after the entry of judgment in the circuit
4 court in any action in review, prosecute an appeal to a court having appellate
5 jurisdiction in this state. Such appeal shall be prosecuted as appeals from
6 judgment of the circuit court in civil cases except as otherwise provided in this
7 chapter] **and is aggrieved by the opinion of the court may seek rehearing**
8 **or transfer to the Missouri supreme court under rules established by**
9 **the court.** The original transcript of the record and testimony and exhibits,
10 certified to by the commission and filed [in the circuit court in any action to
11 review an order or decision of the commission, together with a transcript of the
12 proceedings in the circuit court,] **with the court of appeals** shall constitute the
13 record on appeal to the supreme court [or any court of appeals].

14 2. Where an appeal is taken to the supreme court [or the court of
15 appeals], the cause shall, on the return of the papers to the supreme court [or
16 court of appeals], be immediately placed on the docket of the then pending term
17 by the clerk of the court and shall be assigned and brought to a hearing in the
18 same manner as other causes on the then pending term docket, but shall have
19 precedence over all civil causes of a different nature pending in the court. [No
20 appeal shall be effective when taken by a corporation, person or public utility
21 unless a cost bond of appeal in the sum of five hundred dollars shall be filed
22 within ten days after the entry of judgment in the circuit court appealed from.]

23 3. [The circuit court may in its discretion suspend its judgment pending
24 the hearing in the supreme court or court of appeals on appeal, upon the filing
25 of a bond by the corporation, person or public utility with good and sufficient
26 security conditioned as provided for bonds upon actions for review and by further
27 complying with all terms and conditions of this law for the suspension of any
28 order or decision of the commission pending the hearing or review in the circuit

29 court. This bond shall be in addition to the cost bond heretofore provided in this
30 section.

31 4.] The general laws relating to appeals to the supreme court and the
32 court of appeals in this state shall, so far as applicable and not in conflict with
33 the provisions of this chapter, apply to appeals taken under the provisions of this
34 chapter.

393.015. 1. Notwithstanding any other provision of law to the contrary,
2 any sewer corporation, municipality or sewer district established under the
3 provisions of chapter 249 or 250, or sections 204.250 to 204.470, or any sewer
4 district created and organized pursuant to constitutional authority, may contract
5 with any water corporation to terminate water services to any customer premises
6 for nonpayment of a sewer bill. No such termination of water service may occur
7 until thirty days after the sewer corporation, municipality or statutory sewer
8 district or sewer district created and organized pursuant to constitutional
9 authority sends a written notice to the customer [by certified mail], except that
10 if the water corporation is performing a combined water and sewer billing service
11 for the sewer corporation, municipality or sewer district, no additional notice or
12 any additional waiting period shall be required other than the notice and waiting
13 period already used by the water corporation to disconnect water service for
14 nonpayment of the water bill. Acting pursuant to a contract, the water
15 corporation shall discontinue water service until such time as the sewer charges
16 and all related costs of termination and reestablishment of sewer and water
17 services are paid by the customer.

18 2. A water corporation acting pursuant to a contract with a sewer
19 corporation, municipality or sewer district as provided in subsection 1 of this
20 section shall not be liable for damages related to termination of water services
21 unless such damage is caused by the negligence of such water corporation, in
22 which case the water corporation shall be indemnified by the sewer corporation,
23 municipality or sewer district. Unless otherwise specified in the contract, all
24 costs related to the termination and reestablishment of services by the water
25 corporation shall be reimbursed by the sewer corporation, municipality, sewer
26 district or sewer district created and organized pursuant to constitutional
27 authority.

**393.152. 1. A public utility regulated under this chapter shall not
2 require a deposit or guarantee as a condition of continued residential
3 service to any existing customer who has been delinquent in paying his
4 or her utility bill at least five times in twelve consecutive months if:**

5 (1) Such customer has consistently made a payment for each

6 month during the twelve consecutive months, provided that each
7 payment is made by the delinquent date; and

8 (2) Each payment made in subdivision (1) of this subsection is at
9 least seventy-five dollars or twenty-five percent of the total outstanding
10 balance, provided that the total outstanding balance is three hundred
11 dollars or less.

12 2. This section shall not apply to any customer whose total
13 outstanding balance exceeds three hundred dollars or to any customer
14 making payments under a pay plan previously arranged with the
15 utility.

620.2300. 1. As used in this section, the following terms shall
2 mean;

3 (1) "Department", the Missouri department of economic
4 development;

5 (2) "Biomass facility", a biomass renewable energy facility or
6 biomass fuel production facility that will not be a major source for air
7 quality permitting purposes;

8 (3) "Commission", the Missouri public service commission;

9 (4) "County average wage", the average wages in each county as
10 determined by the department for the most recently completed full
11 calendar year. However, if the computed county average wage is above
12 the statewide average wage, the statewide average wage shall be
13 deemed the county average wage for such county for the purpose of
14 determining eligibility. The department shall publish the county
15 average wage for each county at least annually. Notwithstanding the
16 provisions of this subdivision to the contrary, for any project that is
17 relocating employees from a Missouri county with a higher county
18 average wage, the company shall obtain the endorsement of the
19 governing body of the community from which jobs are being relocated
20 or the county average wage for their project shall be the county
21 average wage for the county from which the employees are being
22 relocated;

23 (5) "Full-time employee", an employee of the project facility that
24 is scheduled to work an average of at least thirty-five hours per week
25 for a twelve-month period, and one for which the employer offers
26 health insurance and pays at least fifty percent of such insurance
27 premiums;

28 (6) "Major source", the same meaning as is provided under 40

29 **C.F.R. 70.2;**

30 (7) "New job", the number of full-time employees located at the
31 project facility that exceeds the project facility base employment less
32 any decrease in the number of full-time employees at related facilities
33 below the related facility base employment. An employee that spends
34 less than fifty percent of the employee's work time at the project
35 facility is still considered to be located at a facility if the employee
36 receives his or her directions and control from that facility, is on the
37 facility's payroll, one hundred percent of the employee's income from
38 such employment is Missouri income, and the employee is paid at or
39 above the state average wage;

40 (8) "Park", an area consisting of a parcel or tract of land, or any
41 combination of parcels or contiguous land that meet all of the following
42 requirements:

43 (a) The area consists of at least fifty contiguous acres;

44 (b) The property within the area is subject to remediation under
45 a clean up program supervised by the Missouri department of natural
46 resources or United States environmental protection agency;

47 (c) The area contains a manufacturing facility that is closed,
48 undergoing closure, idle, underutilized, or curtailed and that at one
49 time employed at least two hundred employees;

50 (d) The development plan for the area includes a biomass
51 facility; and

52 (e) Property located within the area will be used for the
53 development of renewable energy and the demonstration of industrial
54 on-site energy generation;

55 (9) "Project", a clean fields renewable energy demonstration
56 project located within a park that will result in the creation of at least
57 fifty new jobs and the retention of at least fifty existing jobs;

58 (10) "Project application", an application submitted to the
59 department, by an owner of all or a portion of a park, on a form
60 provided by the department, requesting benefits provided under this
61 section;

62 (11) "Project facility", a biomass facility at which the new jobs
63 will be located. A project facility may include separate buildings that
64 are located within fifty miles of each other or within the same county
65 such that their purpose and operations are interrelated;

66 (12) "Project facility base employment", the greater of the

67 **number of full-time employees located at the project facility on the date**
68 **of the project application or for the twelve-month period prior to the**
69 **date of the project application, the average number of full-time**
70 **employees located at the project facility. In the event the project**
71 **facility has not been in operation for a full twelve-month period, the**
72 **average number of full-time employees for the number of months the**
73 **project facility has been in operation prior to the date of the project**
74 **application.**

75 **2. The owner of a park seeking to establish a project shall submit**
76 **a project application to the department for certification of such**
77 **project. The department shall review all project applications received**
78 **under this section and, in consultation with the department of natural**
79 **resources, verify satisfaction of the requirements of this section. If the**
80 **department approves a project application, the department shall**
81 **forward such application and approval to the commission.**

82 **3. Notwithstanding provisions of section 393.1030 to the contrary,**
83 **upon receipt of an application and approval from the department, the**
84 **commission shall assign double credit to any electric power, renewable**
85 **energy, renewable energy credits, or any successor credit generated**
86 **from:**

87 **(1) Renewable energy resources purchased from the biomass**
88 **facility located in the park by an electric power supplier;**

89 **(2) Electric power generated off-site by utilizing biomass fuel**
90 **sold by the biomass facility located at the park; or**

91 **(3) Electric power generated off-site by renewable energy**
92 **resources utilizing storage equipment manufactured at the park that**
93 **increases the quantity of electricity delivered to the electric power**
94 **supplier.**

Section B. Because of the immediate need to provide meaningful and
2 equitable relief to parties who may successfully pursue review of Missouri Public
3 Service Commission orders or decisions and the need to ensure the creation of
4 jobs through the utilization of alternative energy sources, the repeal and
5 reenactment of sections 386.420, 386.510, 386.515, 386.520, 386.530, and 386.540
6 and the enactment of section 620.2300 of section A of this act is deemed necessary
7 for the immediate preservation of the public health, welfare, peace and safety,
8 and is hereby declared to be an emergency act within the meaning of the
9 constitution, and the repeal and reenactment of sections 386.420, 386.510,
10 386.515, 386.520, 386.530, and 386.540 and the enactment of section 620.2300 of

11 section A of this act shall be in full force and effect upon its passage and
12 approval.

✓

Unofficial

Bill

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