

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE SUBSTITUTE FOR
SENATE BILL NO. 44
101ST GENERAL ASSEMBLY

0809H.07C

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 91.025, 153.030, 153.034, 204.569, 386.370, 386.800, 393.106, 393.358, 394.020, 394.120, and 394.315, RSMo, and to enact in lieu thereof sixteen new sections relating to utilities.

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

Section A. Sections 91.025, 153.030, 153.034, 204.569, 386.370, 386.800, 393.106, 393.358, 394.020, 394.120, and 394.315, RSMo, are repealed and sixteen new sections enacted in lieu thereof, to be known as sections 67.309, 91.025, 153.030, 153.034, 204.569, 386.370, 386.800, 393.106, 393.358, 393.1500, 393.1503, 393.1506, 393.1509, 394.020, 394.120, and 394.315, to read as follows:

67.309. 1. No political subdivision of this state shall adopt an ordinance, resolution, regulation, code, or policy that prohibits, or has the effect of prohibiting, the connection or reconnection of a utility service based upon the type or source of energy to be delivered to an individual customer. Nothing in this section shall limit the ability of a political subdivision to choose utility services for properties owned by such political subdivision or limit a political subdivision's ability to ensure public safety.

2. For purposes of this section, utility services shall include natural gas, propane gas, electricity, and any other form of energy provided to an end user customer.

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

(1) "Municipally owned or operated electric power system", a system for the distribution of electrical power and energy to the inhabitants of a municipality which is owned and operated by the municipality itself, whether operated under authority pursuant to this chapter or under a charter form of government;

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

6 (2) "Permanent service", electrical service provided through facilities which have been
7 permanently installed on a structure and which are designed to provide electric service for the
8 structure's anticipated needs for the indefinite future, as contrasted with facilities installed
9 temporarily to provide electrical service during construction. Service provided temporarily shall
10 be at the risk of the electrical supplier and shall not be determinative of the rights of the provider
11 or recipient of permanent service;

12 (3) "Structure" or "structures", an agricultural, residential, commercial, industrial or other
13 building or a mechanical installation, machinery or apparatus at which retail electric energy is
14 being delivered through a metering device which is located on or adjacent to the structure and
15 connected to the lines of an electrical corporation, rural electric cooperative, municipally owned
16 or operated electric power system, or joint municipal utility commission. Such terms shall
17 include any contiguous or adjacent additions to or expansions of a particular structure. Nothing
18 in this section shall be construed to confer any right on an electric supplier to serve new
19 structures on a particular tract of land because it was serving an existing structure on that tract.

20 2. Once a municipally owned or operated electrical system, or its predecessor in interest,
21 lawfully commences supplying retail electric energy to a structure through permanent service
22 facilities, it shall have the right to continue serving such structure, and other suppliers of
23 electrical energy shall not have the right to provide service to the structure except as might be
24 otherwise permitted in the context of municipal annexation, pursuant to section 386.800 or
25 pursuant to a territorial agreement approved under section 394.312. The public service
26 commission, upon application made by a customer, may order a change of suppliers on the basis
27 that it is in the public interest for a reason other than a rate differential, and the commission is
28 hereby given jurisdiction over municipally owned or operated electric systems to accomplish the
29 purpose of this section. The commission's jurisdiction under this section is limited to public
30 interest determinations and excludes questions as to the lawfulness of the provision of service,
31 such questions being reserved to courts of competent jurisdiction. Except as provided in this
32 section, nothing in this section shall be construed as otherwise conferring upon the commission
33 jurisdiction over the service, rates, financing, accounting or management of any such municipally
34 owned or operated electrical system, and nothing in this section, section 393.106, and section
35 394.315 shall affect the rights, privileges or duties of any municipality to form or operate
36 municipally owned or operated electrical systems. Nothing in this section shall be construed to
37 make lawful any provision of service which was unlawful prior to July 11, 1991. Nothing in this
38 section shall be construed to make unlawful the continued lawful provision of service to any
39 structure which may have had a different supplier in the past, if such a change in supplier was
40 lawful at the time it occurred.

41 **3. Notwithstanding the provisions of this section and sections 393.106, 394.080, and**
42 **394.315 to the contrary, in the event that a retail electric supplier is providing service to**
43 **a structure located within a city, town, or village that has ceased to be a rural area, and**
44 **such structure is demolished and replaced by a new structure, such retail electric service**
45 **supplier may provide permanent service to the new structure upon the request of the**
46 **owner of the new structure.**

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

10 2. And taxes levied thereon shall be levied and collected in the manner as is now or may
11 hereafter be provided by law for the taxation of railroad property in this state, and county
12 commissions, county boards of equalization and the state tax commission are hereby required
13 to perform the same duties and are given the same powers, including punitive powers, in
14 assessing, equalizing and adjusting the taxes on the property set forth in this section as the county
15 commissions and boards of equalization and state tax commission have or may hereafter be
16 empowered with, in assessing, equalizing, and adjusting the taxes on railroad property; and an
17 authorized officer of any such bridge, telegraph, telephone, electric power and light companies,
18 electric transmission lines, pipeline companies, or express company or the owner of any such toll
19 bridge, is hereby required to render reports of the property of such bridge, telegraph, telephone,
20 electric power and light companies, electric transmission lines, pipeline companies, or express
21 companies in like manner as the authorized officer of the railroad company is now or may
22 hereafter be required to render for the taxation of railroad property.

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

29 4. If any telephone company assessed pursuant to chapter 153 has a microwave relay
30 station or stations in a county in which it has no wire mileage but has wire mileage in another

31 county, then, for purposes of apportioning the assessed value of the distributable property of such
32 companies, the straight line distance between such microwave relay stations shall constitute
33 miles of wire. In the event that any public utility company assessed pursuant to this chapter has
34 no distributable property which physically traverses the counties in which it operates, then the
35 assessed value of the distributable property of such company shall be apportioned to the physical
36 location of the distributable property.

37 5. (1) Notwithstanding any provision of law to the contrary, beginning January 1, 2019,
38 a telephone company shall make a one-time election within the tax year to be assessed:

39 (a) Using the methodology for property tax purposes as provided under this section; or

40 (b) Using the methodology for property tax purposes as provided under this section for
41 property consisting of land and buildings and be assessed for all other property exclusively using
42 the methodology utilized under section 137.122.

43

44 If a telephone company begins operations, including a merger of multiple telephone companies,
45 after August 28, 2018, it shall make its one-time election to be assessed using the methodology
46 for property tax purposes as described under paragraph (b) of subdivision (1) of this subsection
47 within the year in which the telephone company begins its operations. A telephone company that
48 fails to make a timely election shall be deemed to have elected to be assessed using the
49 methodology for property tax purposes as provided under subsections 1 to 4 of this section.

50 (2) The provisions of this subsection shall not be construed to change the original
51 assessment jurisdiction of the state tax commission.

52 (3) Nothing in subdivision (1) of this subsection shall be construed as applying to any
53 other utility.

54 (4) (a) The provisions of this subdivision shall ensure that school districts may avoid
55 any fiscal impact as a result of a telephone company being assessed under the provisions of
56 paragraph (b) of subdivision (1) of this subsection. If a school district's current operating levy
57 is below the greater of its most recent voter-approved tax rate or the most recent voter-approved
58 tax rate as adjusted under subdivision (2) of subsection 5 of section 137.073, it shall comply with
59 section 137.073.

60 (b) Beginning January 1, 2019, any school district currently operating at a tax rate equal
61 to the greater of the most recent voter-approved tax rate or the most recent voter-approved tax
62 rate as adjusted under subdivision (2) of subsection 5 of section 137.073 that receives less tax
63 revenue from a specific telephone company under this subsection, on or before January thirty-
64 first of the year following the tax year in which the school district received less revenue from a
65 specific telephone company, may by resolution of the school board impose a fee, as determined
66 under this subsection, in order to obtain such revenue. The resolution shall include all facts that

67 support the imposition of the fee. If the school district receives voter approval to raise its tax
68 rate, the district shall no longer impose the fee authorized in this paragraph.

69 (c) Any fee imposed under paragraph (b) of this subdivision shall be determined by
70 taking the difference between the tax revenue the telephone company paid in the tax year in
71 question and the tax revenue the telephone company would have paid in such year had it not
72 made an election under subdivision (1) of this subsection, which shall be calculated by taking
73 the telephone company valuations in the tax year in question, as determined by the state tax
74 commission under paragraph (d) of this subdivision, and applying such valuations to the
75 apportionment process in subsection 2 of section 151.150. The school district shall issue a
76 billing, as provided in this subdivision, to any such telephone company. A telephone company
77 shall have forty-five days after receipt of a billing to remit its payment of its portion of the fees
78 to the school district. Notwithstanding any other provision of law, the issuance or receipt of such
79 fee shall not be used:

80 a. In determining the amount of state aid that a school district receives under section
81 163.031;

82 b. In determining the amount that may be collected under a property tax levy by such
83 district; or

84 c. For any other purpose.

85

86 For the purposes of accounting, a telephone company that issues a payment to a school district
87 under this subsection shall treat such payment as a tax.

88 (d) When establishing the valuation of a telephone company assessed under paragraph
89 (b) of subdivision (1) of this subsection, the state tax commission shall also determine the
90 difference between the assessed value of a telephone company if:

91 a. Assessed under paragraph (b) of subdivision (1) of this subsection; and

92 b. Assessed exclusively under subsections 1 to 4 of this section.

93

94 The state tax commission shall then apportion such amount to each county and provide such
95 information to any school district making a request for such information.

96 (e) This subsection shall expire when no school district is eligible for a fee.

97 6. (1) If any public utility company assessed pursuant to this chapter has ownership of
98 any real or personal property associated with a project which uses wind energy directly to
99 generate electricity, such wind energy project property shall be valued and taxed by any local
100 authorities having jurisdiction under the provisions of chapter 137 and other relevant provisions
101 of the law.

102 (2) Notwithstanding any provision of law to the contrary, beginning January 1, 2020, for
103 any public utility company assessed pursuant to this chapter which has a wind energy project,
104 such wind energy project shall be assessed using the methodology for real and personal property
105 as provided in this subsection:

106 (a) Any wind energy property of such company shall be assessed upon the county
107 assessor's local tax rolls;

108 (b) Any property consisting of land and buildings related to the wind energy project shall
109 be assessed under chapter 137; and

110 (c) All other business or personal property related to the wind energy project shall be
111 assessed using the methodology provided under section 137.122.

112 **7. (1) If any public utility company assessed pursuant to this chapter has**
113 **ownership of any real or personal property associated with a generation project which was**
114 **originally constructed utilizing financing authorized pursuant to chapter 100 for**
115 **construction, upon the transfer of ownership of such property to the public utility company**
116 **such property shall be valued and taxed by any local authorities having jurisdiction under**
117 **the provisions of chapter 137 and other relevant provisions of law.**

118 **(2) Notwithstanding any provision of law to the contrary, beginning January 1,**
119 **2022, for any public utility company assessed pursuant to this chapter which has**
120 **ownership of any real or personal property associated with a generation project which was**
121 **originally constructed utilizing financing authorized pursuant to chapter 100 for**
122 **construction, upon the transfer of ownership of such property to the public utility company**
123 **such property shall be assessed as follows:**

124 **(a) Any property associated with a generation project which was originally**
125 **constructed utilizing financing authorized pursuant to chapter 100 for construction shall**
126 **be assessed upon the county assessor's local tax rolls. The assessor shall rely on the public**
127 **utility company for cost information of the generation portion of the property as found in**
128 **the public utility company's Federal Energy Regulatory Commission Financial Report**
129 **Form Number One at the time of transfer of ownership and depreciate the costs provided**
130 **in a manner similar to other commercial and industrial property;**

131 **(b) Any property consisting of land and buildings related to the generation**
132 **property associated with a generation project which was originally constructed utilizing**
133 **financing pursuant to chapter 100 for construction shall be assessed under chapter 137;**
134 **and**

135 **(c) All other business or personal property related to a generation project which**
136 **was originally constructed utilizing financing pursuant to chapter 100 for construction**
137 **shall be assessed using the methodology provided under section 137.122.**

153.034. 1. The term "distributable property" of an electric company shall 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 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.

3. (1) Any real or tangible personal property associated with a project which uses wind energy directly to generate electricity shall be valued and taxed by local authorities having jurisdiction under the provisions of chapter 137 and any other relevant provisions of law. The method of taxation prescribed in subsection 2 of section 153.030 and subsection 1 of this section shall not apply to such property.

(2) The real or tangible personal property referenced in subdivision (1) of this subsection shall include all equipment whose sole purpose is to support the integration of a wind generation

37 asset into an existing system. Examples of such property may include, but are not limited to,
38 wind chargers, windmills, wind turbines, wind towers, and associated electrical equipment such
39 as inverters, pad mount transformers, power lines, storage equipment directly associated with
40 wind generation assets, and substations.

41 **4. For any real or tangible personal property associated with a generation project**
42 **which was originally constructed utilizing financing authorized under chapter 100 for**
43 **construction, upon the transfer of ownership of such property to a public utility, such**
44 **property shall be valued and taxed by local authorities having jurisdiction under the**
45 **provisions of chapter 137 and any other relevant provisions of law. The method of taxation**
46 **prescribed in subsection 2 of section 153.030 and subsection 1 of this section shall not apply**
47 **to such property.**

204.569. When an unincorporated sewer subdistrict of a common sewer district has been
2 formed pursuant to sections 204.565 to 204.573, the board of trustees of the common sewer
3 district shall have the same powers with regard to the subdistrict as for the common sewer
4 district as a whole, plus the following additional powers:

5 (1) To enter into agreements to accept, take title to, or otherwise acquire, and to operate
6 such sewers, sewer systems, treatment and disposal facilities, and other property, both real and
7 personal, of the political subdivisions included in the subdistrict as the board determines to be
8 in the interest of the common sewer district to acquire or operate, according to such terms and
9 conditions as the board finds reasonable, provided that such authority shall be in addition to the
10 powers of the board of trustees pursuant to section 204.340;

11 (2) To provide for the construction, extension, improvement, and operation of such
12 sewers, sewer systems, and treatment and disposal facilities, as the board determines necessary
13 for the preservation of public health and maintenance of sanitary conditions in the subdistrict;

14 (3) For the purpose of meeting the costs of activities undertaken pursuant to the authority
15 granted in this section, to issue bonds in anticipation of revenues of the subdistrict in the same
16 manner as set out in sections 204.360 to 204.450, for other bonds of the common sewer district.
17 Issuance of such bonds for the subdistrict shall require the assent only of four-sevenths of the
18 voters of the subdistrict voting on the question~~[, and]~~ **except that, as an alternative to such a**
19 **vote, if the subdistrict is a part of a common sewer district located in whole or in part in**
20 **any county of the first classification without a charter form of government adjacent to a**
21 **county of the first classification with a charter form of government and a population of at**
22 **least six hundred thousand and not more than seven hundred fifty thousand, bonds may**
23 **be issued for such subdistrict if the question receives the written assent of three-quarters**
24 **of the customers of the subdistrict in a manner consistent with section 204.370, where**
25 **"customer", as used in this subdivision, means any political subdivision within the**

26 **subdistrict that has a service or user agreement with the common sewer district.** The
27 principal and interest of such bonds shall be payable only from the revenues of the subdistrict
28 and not from any revenues of the common sewer district as a whole;

29 (4) To charge the costs of the common sewer district for operation and maintenance
30 attributable to the subdistrict, plus a proportionate share of the common sewer district's costs of
31 administration to revenues of the subdistrict and to consider such costs in determining reasonable
32 charges to impose within the subdistrict under section 204.440;

33 (5) With prior concurrence of the subdistrict's advisory board, to provide for the
34 treatment and disposal of sewage from the subdistrict in or by means of facilities of the common
35 sewer district not located within the subdistrict, in which case the board of trustees shall also
36 have authority to charge a proportionate share of the costs of the common sewer district for
37 operation and maintenance to revenues of the subdistrict and to consider such costs in
38 determining reasonable charges to impose within the subdistrict under section 204.440.

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

11 2. The commission shall allocate to each such group of public utilities the estimated
12 expenses directly attributable to the regulation of such group and an amount equal to such
13 proportion of the estimated expenses not directly attributable to any group as the gross intrastate
14 operating revenues of such group during the preceding calendar year bears to the total gross
15 intrastate operating revenues of all public utilities subject to the jurisdiction of the commission,
16 as aforesaid, during such calendar year. The commission shall then assess the amount so
17 allocated to each group of public utilities, subject to reduction as herein provided, to the public
18 utilities in such group in proportion to their respective gross intrastate operating revenues during
19 the preceding calendar year, except that the total amount so assessed to all such public utilities
20 shall not exceed ~~[one-fourth]~~ **thirty-eight hundredths** of one percent of the total gross intrastate
21 operating revenues of all utilities subject to the jurisdiction of the commission.

22 3. The commission shall render a statement of such assessment to each such public
23 utility on or before July first and the amount so assessed to each such public utility shall be paid

24 by it to the director of revenue in full on or before July fifteenth next following the rendition of
25 such statement, except that any such public utility may at its election pay such assessment in four
26 equal installments not later than the following dates next following the rendition of said
27 statement, to wit: July fifteenth, October fifteenth, January fifteenth and April fifteenth. The
28 director of revenue shall remit such payments to the state treasurer.

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

41 5. In order to enable the commission to make the allocations and assessments herein
42 provided for, each public utility subject to the jurisdiction of the commission as aforesaid shall
43 file with the commission, within ten days after August 28, 1996, and thereafter on or before
44 March thirty-first of each year, a statement under oath showing its gross intrastate operating
45 revenues for the preceding calendar year, and if any public utility shall fail to file such statement
46 within the time aforesaid the commission shall estimate such revenue which estimate shall be
47 binding on such public utility for the purpose of this section.

386.800. 1. No municipally owned electric utility may provide electric energy at retail
2 to any structure located outside the municipality's corporate boundaries after July 11, 1991,
3 unless:

4 (1) The structure was lawfully receiving permanent service from the municipally owned
5 electric utility prior to July 11, 1991; [ø]

6 (2) The service is provided pursuant to an approved territorial agreement under section
7 394.312;

8 (3) The service is provided pursuant to lawful municipal annexation and subject to the
9 provisions of this section; or

10 (4) The structure is located in an area which was previously served by an electrical
11 corporation regulated under chapter 386, and chapter 393, and the electrical corporation's
12 authorized service territory was contiguous to or inclusive of the municipality's previous

13 corporate boundaries, and the electrical corporation's ownership or operating rights within the
14 area were acquired in total by the municipally owned electrical system prior to July 11, 1991.
15 In the event that a municipally owned electric utility in a city with a population of more than one
16 hundred twenty-five thousand located in a county of the first class not having a charter form of
17 government and not adjacent to any other county of the first class desires to serve customers
18 beyond the authorized service territory in an area which was previously served by an electrical
19 corporation regulated under the provisions of chapter 386, and chapter 393, as provided in this
20 subdivision, **in the absence of an approved territorial agreement under section 394.312**, the
21 municipally owned utility shall apply to the public service commission for an order assigning
22 nonexclusive service territories **and concurrently shall provide written notice of the**
23 **application to other electric service suppliers with electric facilities located in or within one**
24 **mile outside of the boundaries of the proposed expanded service territory.** The proposed
25 service area shall be contiguous to the authorized service territory which was previously served
26 by an electrical corporation regulated under the provisions of chapter 386, and chapter 393, as
27 a condition precedent to the granting of the application. The commission shall have one hundred
28 twenty days from the date of application to grant or deny the requested order. The commission,
29 **after a hearing**, may grant the order upon a finding that granting of the applicant's request is not
30 detrimental to the public interest. In granting the applicant's request the commission shall give
31 due regard to territories previously granted to **or served by** other electric **service** suppliers **and**
32 **the wasteful duplication of electric service facilities.**

33 2. Any municipally owned electric utility may extend, pursuant to lawful annexation, its
34 **electric** service territory to include ~~[any structure located within a newly annexed area which has~~
35 ~~not received permanent service from another supplier within ninety days prior to the effective~~
36 ~~date of the annexation]~~ **areas where another electric supplier currently is not providing**
37 **permanent service to a structure. If a rural electric cooperative has existing electric service**
38 **facilities with adequate and necessary service capability located in or within one mile**
39 **outside the boundaries of the area proposed to be annexed, a majority of the existing**
40 **developers, landowners, or prospective electric customers in the area proposed to be**
41 **annexed may, anytime within forty-five days prior to the effective date of the annexation,**
42 **submit a written request to the governing body of the annexing municipality to invoke**
43 **mandatory good faith negotiations under section 394.312 to determine which electric**
44 **service supplier is best suited to serve all or portions of the newly annexed area. In such**
45 **negotiations the following factors shall be considered, at a minimum:**

- 46 (1) The preference of landowners and prospective electric customers;
47 (2) The rates, terms, and conditions of service of the electric service suppliers;
48 (3) The economic impact on the electric service suppliers;

49 **(4) Each electric service supplier's operational ability to serve all or portions of the**
50 **annexed area within three years of the date the annexation becomes effective;**

51 **(5) Avoiding the wasteful duplication of electric facilities;**

52 **(6) Minimizing unnecessary encumbrances on the property and landscape within**
53 **the area to be annexed; and**

54 **(7) Preventing the waste of materials and natural resources.**

55

56 **If the municipally owned electric utility and rural electric cooperative are unable to**
57 **negotiate a territorial agreement pursuant to section 394.312 within forty-five days, then**
58 **they may submit proposals to those submitting the original written request, whose**
59 **preference shall control, section 394.080 to the contrary notwithstanding, and the**
60 **governing body of the annexing municipality shall not reject the petition requesting**
61 **annexation based on such preference. This subsection shall not apply to municipally-**
62 **owned property in any newly annexed area.**

63 **3. In the event an electrical corporation rather than a municipally owned electric**
64 **utility lawfully is providing electric service in the municipality, all the provisions of**
65 **subsection 2 shall apply equally as if the electrical corporation were a municipally owned**
66 **electric utility, except that if the electrical corporation and the rural electric cooperative**
67 **are unable to negotiate a territorial agreement pursuant to section 394.312 within forty-five**
68 **days, then either electric supplier may file an application with the commission for an order**
69 **determining which electric supplier should serve, in whole or in part, the area to be**
70 **annexed. The application shall be made pursuant to the rules and regulations of the**
71 **commission governing applications for certificates of public convenience and necessity.**
72 **The commission after the opportunity for hearing shall make its determination after**
73 **consideration of the factors set forth in subdivisions (1) through (7) of subsection 2 of this**
74 **section, and section 394.080 to the contrary notwithstanding, may grant its order upon a**
75 **finding that granting of the applicant's request is not detrimental to the public interest.**
76 **The commission shall issue its decision by report and order no later than one hundred**
77 **twenty days from the date of the application unless otherwise ordered by the commission**
78 **for good cause shown. Review of such commission decisions shall be governed by sections**
79 **386.500 to 386.550. If the applicant is a rural electric cooperative, the commission shall**
80 **charge to the rural electric cooperative the appropriate fees as set forth in subsection 9 of**
81 **this section.**

82 ~~3-~~ **4. When a municipally owned electric utility desires to extend its service territory**
83 **to include any structure located within a newly annexed area which has received permanent**

84 service from another **electric service** supplier within ninety days prior to the effective date of the
85 annexation, it shall:

86 (1) Notify by publication in a newspaper of general circulation the record owner of said
87 structure, and notify in writing any affected electric **service** supplier and the public service
88 commission, within sixty days after the effective date of the annexation its desire to extend its
89 service territory to include said structure; and

90 (2) Within six months after the effective date of the annexation receive the approval of
91 the municipality's governing body to begin negotiations pursuant to section 394.312 with ~~[any]~~
92 **the** affected electric **service** supplier.

93 ~~[4-]~~ **5.** Upon receiving approval from the municipality's governing body pursuant to
94 subsection 3 of this section, the municipally owned electric utility and the affected electric
95 **service** supplier shall meet and negotiate in good faith the terms of the territorial agreement and
96 any transfers or acquisitions, including, as an alternative, granting the affected electric **service**
97 supplier a franchise or authority to continue providing service in the annexed area. In the event
98 that the affected electric **service** supplier does not provide wholesale electric power to the
99 municipality, if the affected electric **service** supplier so desires, the parties ~~[shall]~~ **may** also
100 negotiate, consistent with applicable law, regulations and existing power supply agreements, for
101 power contracts which would provide for the purchase of power by the municipality from the
102 affected electric **service** supplier for an amount of power equivalent to the loss of any sales to
103 customers receiving permanent service at structures within the annexed areas which are being
104 sought by the municipally owned electric utility. The parties shall have no more than one
105 hundred eighty days from the date of receiving approval from the municipality's governing body
106 within which to conclude their negotiations and file their territorial agreement with the
107 commission for approval under the provisions of section 394.312. The time period for
108 negotiations allowed under this subsection may be extended for a period not to exceed one
109 hundred eighty days by a mutual agreement of the parties and a written request with the public
110 service commission.

111 ~~[5-]~~ **6.** For purposes of this section, the term "fair and reasonable compensation" shall
112 mean the following:

113 (1) The present-day reproduction cost, new, of the properties and facilities serving the
114 annexed areas, less depreciation computed on a straight-line basis; and

115 (2) An amount equal to the reasonable and prudent cost of detaching the facilities in the
116 annexed areas and the reasonable and prudent cost of constructing any necessary facilities to
117 reintegrate the system of the affected electric **service** supplier outside the annexed area after
118 detaching the portion to be transferred to the municipally owned electric utility; and

119 (3) ~~[Four]~~ **Two** hundred percent of gross revenues less gross receipts taxes received by
120 the affected electric **service** supplier from the twelve-month period preceding the approval of the
121 municipality's governing body under the provisions of subdivision (2) of subsection ~~[3]~~ **4** of this
122 section, normalized to produce a representative usage from customers at the subject structures
123 in the annexed area; and

124 (4) Any federal, state and local taxes which may be incurred as a result of the transaction,
125 including the recapture of any deduction or credit; and

126 (5) Any other costs reasonably incurred by the affected electric supplier in connection
127 with the transaction.

128 ~~[6-]~~ **7.** In the event the parties are unable to reach an agreement under subsection ~~[4]~~ **5**
129 of this section, within sixty days after the expiration of the time specified for negotiations, the
130 municipally owned electric utility **or the affected electric service supplier** may apply to the
131 commission for an order assigning exclusive service territories within the annexed area and a
132 determination of the fair and reasonable compensation amount to be paid to the affected electric
133 **service** supplier under subsection ~~[5]~~ **6** of this section. Applications shall be made and notice
134 of such filing shall be given to all affected parties pursuant to the rules and regulations of the
135 commission governing applications for certificates of public convenience and necessity. Unless
136 otherwise ordered by the commission for good cause shown, the commission shall rule on such
137 applications not later than one hundred twenty days after the application is properly filed with
138 the secretary of the commission. The commission shall hold evidentiary hearings to assign
139 service territory between **the** affected electric **service** suppliers inside the annexed area and to
140 determine the amount of compensation due any affected electric **service** supplier for the transfer
141 of plant, facilities or associated lost revenues between electric **service** suppliers in the annexed
142 area. The commission shall make such determinations based on findings of what best serves the
143 public interest and shall issue its decision by report and order. Review of such commission
144 decisions shall be governed by sections 386.500 to 386.550. The payment of compensation and
145 transfer of title and operation of the facilities shall occur within ninety days after the order and
146 any appeal therefrom becomes final unless the order provides otherwise.

147 ~~[7-]~~ **8.** In reaching its decision under subsection ~~[6]~~ **7** of this section, the commission
148 shall consider the following factors:

149 (1) Whether the acquisition or transfers sought by the municipally owned electric utility
150 within the annexed area from the affected electric **service** supplier are, in total, in the public
151 interest, including **the preference of the owner of any affected structure**, consideration of rate
152 disparities between the competing electric **service** suppliers, and issues of unjust rate
153 discrimination among customers of a single electric **service** supplier if the rates to be charged
154 in the annexed areas are lower than those charged to other system customers; and

155 (2) The fair and reasonable compensation to be paid by the municipally owned electric
156 utility, to the affected electric **service** supplier with existing system operations within the
157 annexed area, for any proposed acquisitions or transfers; and

158 (3) Any effect on system operation, including, but not limited to, loss of load and loss
159 of revenue; and

160 (4) Any other issues upon which the municipally owned electric utility and the affected
161 electric **service** supplier might otherwise agree, including, but not limited to, the valuation
162 formulas and factors contained in subsections [4,] 5, 6, and [6] 7, of this section, even if the
163 parties could not voluntarily reach an agreement thereon under those subsections.

164 [8-] **9.** The commission is hereby given all necessary jurisdiction over municipally owned
165 electric utilities and rural electric cooperatives to carry out the purposes of this section consistent
166 with other applicable law; provided, however, the commission shall not have jurisdiction to
167 compel the transfer of customers or structures with a connected load greater than one thousand
168 kilowatts. The commission shall by rule set appropriate fees to be charged on a case-by-case
169 basis to municipally owned electric utilities and rural electric cooperatives to cover all necessary
170 costs incurred by the commission in carrying out its duties under this section. **Nothing in this**
171 **section shall be construed as otherwise conferring upon the public service commission**
172 **jurisdiction over the service, rates, financing, accounting, or management of any rural**
173 **electric cooperative or municipally-owned electric utility, except as provided in this section.**

174 **10. Notwithstanding sections 394.020 and 394.080 to the contrary, a rural electric**
175 **cooperative may provide electric service within the corporate boundaries of a municipality**
176 **if such service is provided:**

177 **(1) Pursuant to subsections 2 through 9 of this section; and**

178 **(2) Such service is conditioned upon the execution of the appropriate territorial and**
179 **municipal franchise agreements, which may include a nondiscriminatory requirement,**
180 **consistent with other applicable law, that the rural electric cooperative collect and remit**
181 **a sales tax based on the amount of electricity sold by the rural electric cooperative within**
182 **the municipality.**

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

2 (1) "Permanent service", electrical service provided through facilities which have been
3 permanently installed on a structure and which are designed to provide electric service for the
4 structure's anticipated needs for the indefinite future, as contrasted with facilities installed
5 temporarily to provide electrical service during construction. Service provided temporarily shall
6 be at the risk of the electrical supplier and shall not be determinative of the rights of the provider
7 or recipient of permanent service;

8 (2) "Structure" or "structures", an agricultural, residential, commercial, industrial or other
9 building or a mechanical installation, machinery or apparatus at which retail electric energy is
10 being delivered through a metering device which is located on or adjacent to the structure and
11 connected to the lines of an electrical supplier. Such terms shall include any contiguous or
12 adjacent additions to or expansions of a particular structure. Nothing in this section shall be
13 construed to confer any right on an electric supplier to serve new structures on a particular tract
14 of land because it was serving an existing structure on that tract.

15 2. Once an electrical corporation or joint municipal utility commission, or its predecessor
16 in interest, lawfully commences supplying retail electric energy to a structure through permanent
17 service facilities, it shall have the right to continue serving such structure, and other suppliers
18 of electrical energy shall not have the right to provide service to the structure except as might be
19 otherwise permitted in the context of municipal annexation, pursuant to section 386.800 and
20 section 394.080, or pursuant to a territorial agreement approved under section 394.312. The
21 public service commission, upon application made by an affected party, may order a change of
22 suppliers on the basis that it is in the public interest for a reason other than a rate differential.
23 The commission's jurisdiction under this section is limited to public interest determinations and
24 excludes questions as to the lawfulness of the provision of service, such questions being reserved
25 to courts of competent jurisdiction. Except as provided in this section, nothing contained herein
26 shall affect the rights, privileges or duties of existing corporations pursuant to this chapter.
27 Nothing in this section shall be construed to make lawful any provision of service which was
28 unlawful prior to July 11, 1991. Nothing in this section shall be construed to make unlawful the
29 continued lawful provision of service to any structure which may have had a different supplier
30 in the past, if such a change in supplier was lawful at the time it occurred. However, those
31 customers who had cancelled service with their previous supplier or had requested cancellation
32 by May 1, 1991, shall be eligible to change suppliers as per previous procedures. No customer
33 shall be allowed to change electric suppliers by disconnecting service between May 1, 1991, and
34 July 11, 1991.

35 **3. Notwithstanding the provisions of this section and sections 91.025, 394.080, and**
36 **394.315 to the contrary, in the event that a retail electric supplier is providing service to**
37 **a structure located within a city, town, or village that has ceased to be a rural area, and**
38 **such structure is demolished and replaced by a new structure, such retail electric service**
39 **supplier may provide permanent service to the new structure upon the request of the**
40 **owner of the new structure.**

393.358. 1. For purposes of this section, the following terms shall mean:

2 (1) "Commission", the Missouri public service commission established under section
3 386.040;

4 (2) "Water corporation", a corporation with more than one thousand Missouri customers
5 that otherwise meets the definition of "water corporation" in section 386.020.

6 2. Water corporations shall develop a qualification process open to all contractors
7 seeking to provide construction and construction-related services for planned infrastructure
8 projects on the water corporation's distribution system. The water corporation shall specify
9 qualification requirements and goals for contractors seeking to perform such work, including but
10 not limited to experience, performance criteria, safety record and policies, technical expertise,
11 scheduling needs and available resources, supplier diversity and insurance requirements.
12 Contractors that meet the qualification requirements shall be eligible to participate in a
13 competitive bidding process for providing construction and construction-related services for
14 planned infrastructure projects on the water corporation's distribution system, and the contractor
15 making the lowest and best bid shall be awarded such contract. For contractors not qualifying
16 through the competitive bid process, the water corporation, upon request from the contractor,
17 shall provide information from the process in which the contractor can be informed as to how
18 to be better positioned to qualify for such bid opportunities in the future. Nothing in this section
19 shall be construed as requiring any water corporation to use third parties instead of its own
20 employees to perform such work, to use the contractor qualification or competitive bidding
21 process in the case of an emergency project, or to terminate any existing contract with a
22 contractor prior to its expiration.

23 3. Within thirty days after August 28, 2018, and with the filing of a general rate
24 proceeding initiated by the water corporation, the water corporation shall file a statement with
25 the commission confirming it has established a qualification process meeting the requirements
26 of this section and that such process is used for no less than ~~ten~~ **twenty** percent of the
27 corporation's external expenditures for planned infrastructure projects on the water corporation's
28 distribution system. The commission shall have the authority to verify the statements to ensure
29 compliance with this section.

30 4. By December 31, 2020, the commission shall submit a report to the general assembly
31 on the effects of this section, including water corporation compliance, the costs of performing
32 planned infrastructure projects prior to the implementation of this section compared to after the
33 implementation of this section, and any other information regarding the process established
34 under this section that the commission deems necessary.

393.1500. Sections 393.1500 to 393.1509 shall be known and may be cited as the
2 **"Missouri Water and Sewer Infrastructure Act".**

393.1503. As used in sections 393.1500 to 393.1509, the following terms shall mean:

2 **(1) "Appropriate pretax revenues", the revenues necessary to produce net**
3 **operating income equal to:**

- 4 **(a) The water or sewer corporation's pretax weighted cost of capital multiplied by**
5 **the net original cost of eligible infrastructure system projects, including recognition of**
6 **accumulated deferred income taxes and accumulated depreciation associated with eligible**
7 **infrastructure system projects which are included in the petition to establish or change a**
8 **WSIRA, plus accumulated deferred income taxes and accumulated depreciation associated**
9 **with any eligible infrastructure system projects in a currently effective WSIRA**
10 **implemented pursuant to sections 393.1506 and 393.1509;**
- 11 **(b) The state, federal, and local income or excise taxes applicable to such revenues;**
- 12 **(c) The depreciation expense applicable to the eligible infrastructure system project**
13 **less annual depreciation expense associated with any related facility retirements; and**
- 14 **(d) The property taxes applicable to the eligible infrastructure that will be due**
15 **within twelve months of the filing of a request to implement a water and sewer**
16 **infrastructure rate adjustment pursuant to sections 393.1506 and 393.1509, less any**
17 **property taxes associated with any related facility retirements;**
- 18 **(2) "Commission", the Missouri public service commission;**
- 19 **(3) "Eligible infrastructure system projects", water or sewer utility plant projects**
20 **that:**
- 21 **(a) Replace or extend the useful life of existing infrastructure;**
- 22 **(b) Are in service and used and useful;**
- 23 **(c) Do not include projects intended solely for customer growth; and**
- 24 **(d) The costs of which were not recovered in the water or sewer corporation's base**
25 **rates in its most recent general rate case;**
- 26 **(4) "Sewer corporation", the same as defined in section 386.020;**
- 27 **(5) "Water and sewer infrastructure rate adjustment" or "WSIRA", a separate**
28 **line item rate on a customer's water or sewer bill designed to recover the appropriate**
29 **pretax revenues associated with eligible infrastructure system projects implemented**
30 **pursuant to sections 393.1500 to 393.1509;**
- 31 **(6) "Water corporation", the same as defined in section 386.020;**
- 32 **(7) "Water or sewer utility plant projects", shall consist of the following:**
- 33 **(a) Replacement of or cleaning and relining of existing water and sewer pipes, and**
34 **associated valves, hydrants, meters, service lines, laterals, sewer taps, curbstops, and**
35 **manholes;**
- 36 **(b) Replacement of lead mains, lead goosenecks and lead service lines, and**
37 **associated valves and meters;**
- 38 **(c) Replacement of booster station and lift station pumps, with equipment of similar**
39 **capacity and operation, as well as related pipes, valves, and meters;**

40 (d) Facilities relocations required due to construction or improvement of a
41 highway, road, street, public way, or other public work by or on behalf of the United
42 States, this state, a political subdivision of this state, or another entity having the power of
43 eminent domain; provided that the costs related to such projects have not been reimbursed
44 to the water or sewer corporation;

45 (e) Replacement of water and wastewater treatment mechanical equipment with
46 equipment of similar capacity and operation, including well and intake pumps, transfer
47 pumps, high service or discharge pumps, and metering pumps; and

48 (f) Replacement of Supervisory Control and Data Acquisition System (SCADA)
49 components necessary for the operation and monitoring of remote installations including
50 radio and cellular communication equipment, and programmable logic controllers;

51 (8) "WSIRA revenues", revenues produced through implementation of a WSIRA
52 pursuant to sections 393.1500 to 393.1509, exclusive of revenues from all other rates and
53 charges.

393.1506. 1. Notwithstanding any provisions of chapter 386 and this chapter to the
2 contrary, a water or sewer corporation that provides water or sewer service to more than
3 eight thousand customer connections may file a petition and proposed rate schedules with
4 the commission to establish or change a WSIRA that will provide for the recovery of the
5 appropriate pretax revenues associated with the eligible infrastructure system projects, less
6 the appropriate pretax revenues associated with any retired utility plant that is being
7 replaced by the eligible infrastructure system projects. The WSIRA shall not produce
8 revenues in excess of fifteen percent of the water or sewer corporation's base revenue
9 requirement approved by the commission in the water or sewer corporation's most recent
10 general rate proceeding; provided, however, that neither WSIRA revenues attributable to
11 replacement of customer-owned lead service lines, nor any reconciliation amounts
12 described in subdivision (2) of subsection 5 of section 393.1509, shall count toward the
13 program cap. The WSIRA and any future changes thereto shall be calculated and
14 implemented in accordance with the provisions of sections 393.1503 to 393.1509. WSIRA
15 revenues shall be subject to refund based upon a finding and order of the commission, to
16 the extent provided in subsections 5 and 8 of section 393.1509.

17 2. The commission shall not approve a WSIRA for a water or sewer corporation
18 that has not had a general rate proceeding decided or dismissed by issuance of a
19 commission order within the past three years of the filing of a petition pursuant to this
20 section unless the water or sewer corporation has filed for or is the subject of a new general
21 rate proceeding.

22 **3. In no event shall a water or sewer corporation collect a WSIRA for a period**
23 **exceeding three years unless the water or sewer corporation has filed for or is the subject**
24 **of a pending general rate proceeding; provided that the WSIRA may be collected until the**
25 **effective date of new rate schedules established as a result of the new general rate**
26 **proceeding or until the subject general rate proceeding is otherwise decided or dismissed**
27 **by issuance of a commission order without new rates being established.**

28 **4. Except as provided in this subsection, in no event shall a water or sewer**
29 **corporation collect a WSIRA if also collecting revenues from a commission approved**
30 **infrastructure system replacement surcharge as provided in sections 393.1000 to 393.1006.**
31 **In no event shall a customer be charged both an infrastructure system replacement**
32 **surcharge as provided in sections 393.1000 to 393.1006 and a WSIRA. In the event a water**
33 **or sewer corporation is collecting infrastructure system replacement surcharge revenues**
34 **under sections 393.1000 to 393.1006, that was approved prior to August 28, 2021, when the**
35 **initial WSIRA is filed, the approved infrastructure system replacement surcharge revenues**
36 **shall be included in the new WSIRA filing.**

393.1509. 1. (1) At the time that a water or sewer corporation files a petition with
2 **the commission seeking to establish or change a WSIRA, it shall submit proposed WSIRA**
3 **rate schedules and supporting documentation regarding the calculation of the proposed**
4 **WSIRA with the petition and shall serve the office of the public counsel with a copy of its**
5 **petition, its proposed WSIRA rate schedules, and its supporting documentation.**

6 **(2) Upon the filing of a petition and any associated WSIRA rate schedules, seeking**
7 **to establish or change a WSIRA, the commission shall publish notice of the filing.**

8 **(3) Three months prior to a water or sewer corporation filing a petition to establish**
9 **a WSIRA, it shall also file with the commission a five-year capital expenditure plan unless**
10 **such a plan has already been submitted during the previous twelve months. Thereafter,**
11 **the water or sewer corporation shall annually file with the commission a five-year capital**
12 **expenditure plan by January thirty-first of each year the corporation is collecting revenues**
13 **through a WSIRA. Nothing in this section shall be construed to prevent the water or sewer**
14 **corporation from prioritizing eligible infrastructure projects that coincide with public**
15 **works projects.**

16 **2. (1) When a petition, along with any associated proposed rate schedules, is filed**
17 **pursuant to the provisions of sections 393.1503 to 393.1509, the commission shall conduct**
18 **an examination of the proposed WSIRA.**

19 **(2) The staff of the commission may examine information of the water or sewer**
20 **corporation to confirm that the underlying costs are in accordance with the provisions of**
21 **sections 393.1503 to 393.1509, and to confirm proper calculation of the proposed WSIRA,**

22 and may submit a report regarding its examination to the commission not later than ninety
23 days after the petition is filed. No other revenue requirement or ratemaking issues shall
24 be examined in consideration of the petition or associated proposed WSIRA rate schedules
25 filed pursuant to the provisions of sections 393.1503 to 393.1509.

26 (3) The commission may hold a hearing on the petition and any associated WSIRA
27 rate schedule and shall issue an order to become effective not later than one hundred eighty
28 days after the petition is filed.

29 (4) If the commission finds that a petition complies with the requirements of
30 sections 393.1503 to 393.1509, the commission shall enter an order authorizing the water
31 or sewer corporation to implement a WSIRA that is sufficient to recover appropriate
32 pretax revenues, as determined by the commission pursuant to the provisions of sections
33 393.1503 to 393.1509.

34 3. A water or sewer corporation may effectuate a change in its WSIRA pursuant
35 to this section no more often than two times in every twelve-month period.

36 4. In determining the appropriate pretax revenues, the commission shall consider
37 only the following factors:

38 (1) The current state, federal, and local income or excise tax rates, including any
39 income tax deductions;

40 (2) The water or sewer corporation's actual regulatory capital structure as
41 determined during the most recent general rate proceeding of the water or sewer
42 corporation;

43 (3) The actual cost rates for the water or sewer corporation's debt and preferred
44 stock as determined during the most recent general rate proceeding of the water or sewer
45 corporation;

46 (4) The water or sewer corporation's cost of common equity as determined during
47 the most recent general rate proceeding of the water or sewer corporation;

48 (5) The current property tax rate or rates applicable to the eligible infrastructure
49 system projects;

50 (6) The current depreciation rates applicable to the eligible infrastructure system
51 projects;

52 (7) In the event information described in subdivisions (2), (3), and (4) of this
53 subsection is unavailable and the commission is not provided with such information on an
54 agreed-upon basis, the commission shall utilize the overall pretax weighted average cost
55 of capital last authorized for the water or sewer corporation in a general rate proceeding
56 regarding a WSIRA or an infrastructure system replacement surcharge under sections
57 393.1000 to 393.1006.

58 **5. (1) A WSIRA shall be calculated based upon the amount of infrastructure**
59 **system project costs that are eligible for recovery during the period in which the WSIRA**
60 **will be in effect and upon the applicable tariff rate group billing determinants utilized in**
61 **designing the water or sewer corporation's customer rates in its most recent general rate**
62 **proceeding and allocated in a manner consistent with the rate design methodology utilized**
63 **to develop the water or sewer corporation's base rates resulting from its most recent**
64 **general rate proceeding.**

65 **(2) At the end of each twelve-month calendar period that a WSIRA is in effect, the**
66 **water or sewer corporation shall reconcile the differences between the revenues resulting**
67 **from a WSIRA and the appropriate pretax revenues as found by the commission for that**
68 **period and shall submit the reconciliation and a proposed WSIRA to the commission for**
69 **approval to recover or credit the difference, as appropriate, through a WSIRA.**

70 **6. (1) A water or sewer corporation that has implemented a WSIRA pursuant to**
71 **the provisions of sections 393.1503 to 393.1509 shall file revised WSIRA schedules to reset**
72 **the WSIRA to zero when new base rates and charges become effective for the water or**
73 **sewer corporation following a commission order establishing customer rates in a general**
74 **rate proceeding that incorporates in the utility's base rates, subject to subsections 8 and**
75 **9 of this section, eligible costs previously reflected in a WSIRA.**

76 **(2) Upon the inclusion in a water or sewer corporation's base rates, subject to**
77 **subsections 8 and 9 of this section, of eligible costs previously reflected in a WSIRA, the**
78 **water or sewer corporation shall immediately thereafter reconcile any previously**
79 **unreconciled WSIRA revenues as necessary to ensure that revenues resulting from the**
80 **WSIRA match as closely as possible the appropriate pretax revenues as found by the**
81 **commission for that period.**

82 **7. A water or sewer corporation's filing of a petition to establish or change a**
83 **WSIRA pursuant to the provisions of sections 393.1503 to 393.1509 shall not be considered**
84 **a request for a general increase in the water or sewer corporation's base rates and charges.**

85 **8. Commission approval of a petition, and any associated rate schedules, to**
86 **establish or change a WSIRA pursuant to the provisions of sections 393.1503 to 393.1509**
87 **shall in no way be binding upon the commission in determining the ratemaking treatment**
88 **to be applied to eligible infrastructure system projects during a subsequent general rate**
89 **proceeding when the commission may undertake to review the prudence of such costs. In**
90 **the event the commission disallows, during a subsequent general rate proceeding, recovery**
91 **of costs associated with eligible infrastructure system projects previously included in a**
92 **WSIRA, the water or sewer corporation shall offset its WSIRA in the future as necessary**
93 **to recognize and account for any such overcollections.**

94 **9. Nothing contained in sections 393.1503 to 393.1509 shall be construed to impair**
95 **in any way the authority of the commission to review the reasonableness of the rates or**
96 **charges of a water or sewer corporation, including review of the prudence of eligible**
97 **infrastructure system replacements made by a water or sewer corporation, pursuant to the**
98 **provisions of section 386.390.**

99 **10. The commission may take into account any change in business risk to the water**
100 **or sewer corporation resulting from implementation of the WSIRA in setting the**
101 **corporation's allowed return in a general rate proceeding in addition to any other changes**
102 **in business risk experienced by the corporation.**

103 **11. The commission shall have authority to promulgate rules for the**
104 **implementation of sections 393.1503 to 393.1509, but only to the extent such rules are**
105 **consistent with, and do not delay the implementation of, the provisions of sections 393.1503**
106 **to 393.1509. Any rule or portion of a rule, as that term is defined in section 536.010, that**
107 **is created under the authority delegated in this section shall become effective only if it**
108 **complies with and is subject to all of the provisions of chapter 536 and, if applicable,**
109 **section 536.028. This section and chapter 536 are nonseverable and if any of the powers**
110 **vested with the general assembly pursuant to chapter 536 to review, to delay the effective**
111 **date, or to disapprove and annul a rule are subsequently held unconstitutional, then the**
112 **grant of rulemaking authority and any rule proposed or adopted after August 28, 2021,**
113 **shall be invalid and void.**

114 **12. The provisions of sections 393.1500 to 393.1509 shall expire on December 31,**
115 **2031.**

394.020. In this chapter, unless the context otherwise requires,

2 (1) "Member" means each incorporator of a cooperative and each person admitted to and
3 retaining membership therein, and shall include a husband and wife admitted to joint
4 membership;

5 (2) "Person" includes any natural person, firm, association, corporation, business trust,
6 partnership, federal agency, state or political subdivision or agency thereof, or any body politic;
7 and

8 (3) "Rural area" shall be deemed to mean any area of the United States not included
9 within the boundaries of any city, town or village having a population in excess of [~~fifteen~~]
10 **sixteen** hundred inhabitants, and such term shall be deemed to include both the farm and
11 nonfarm population thereof. **The number of inhabitants specified in this subdivision shall**
12 **be increased by six percent every ten years after each decennial census beginning in 2030.**

394.120. 1. No person shall become a member of a cooperative unless such person shall
2 agree to use electric energy furnished by the cooperative when such electric energy shall be

3 available through its facilities. The bylaws of a cooperative may provide that any person,
4 including an incorporator, shall cease to be a member thereof if he or she shall fail or refuse to
5 use electric energy made available by the cooperative or if electric energy shall not be made
6 available to such person by the cooperative within a specified time after such person shall have
7 become a member thereof. Membership in the cooperative shall not be transferable, except as
8 provided in the bylaws. The bylaws may prescribe additional qualifications and limitations in
9 respect of membership.

10 2. An annual meeting of the members shall be held at such time as shall be provided in
11 the bylaws.

12 3. Special meetings of the members may be called by the board of directors, by any three
13 directors, by not less than ten percent of the members, or by the president.

14 4. Meetings of members shall be held at such place as may be provided in the bylaws.
15 In the absence of any such provisions, all meetings shall be held in the city or town in which the
16 principal office of the cooperative is located.

17 5. Except as herein otherwise provided, written or printed notice stating the time and
18 place of each meeting of members and, in the case of a special meeting, the purpose or purposes
19 for which the meeting is called, shall be given to each member, either personally or by mail, not
20 less than ten nor more than twenty-five days before the date of the meeting.

21 6. Two percent of the first two thousand members and one percent of the remaining
22 members, present in person, or if the bylaws so provide, participating electronically or by mail,
23 shall constitute a quorum for the transaction of business at all meetings of the members, unless
24 the bylaws prescribe the presence of a greater percentage of the members for a quorum. If less
25 than a quorum is present at any meeting, a majority of those present in person may adjourn the
26 meeting from time to time without further notice.

27 7. Each member shall be entitled to one vote on each matter submitted to a vote at a
28 meeting. Voting shall be in person, but, if the bylaws so provide, may also be by proxy, by
29 electronic means, by mail, or any combination thereof. If the bylaws provide for voting by
30 proxy, by electronic means, or by mail, they shall also prescribe the conditions under which
31 proxy, electronic, or mail voting shall be exercised. In any event, no person shall vote as proxy
32 for more than two members at any meeting of the members.

33 **8. Notwithstanding the provisions of subsections 2 and 7 of this section, the board**
34 **of directors shall have the power to set the time and place of the annual meeting and also**
35 **to provide for voting by proxy, electronic means, by mail, or any combination thereof, and**
36 **to prescribe the conditions under which such voting shall be exercised. The meeting**
37 **requirement provided in this section may be satisfied through virtual means. The**
38 **provisions of this subsection shall expire on August 28, 2022.**

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

2 (1) "Permanent service", electrical service provided through facilities which have been
3 permanently installed on a structure and which are designed to provide electric service for the
4 structure's anticipated needs for the indefinite future, as contrasted with facilities installed
5 temporarily to provide electrical service during construction. Service provided temporarily shall
6 be at the risk of the electrical supplier and shall not be determinative of the rights of the provider
7 or recipient of permanent service;

8 (2) "Structure" or "structures", an agricultural, residential, commercial, industrial or other
9 building or a mechanical installation, machinery or apparatus at which retail electric energy is
10 being delivered through a metering device which is located on or adjacent to the structure and
11 connected to the lines of an electrical supplier. Such terms shall include any contiguous or
12 adjacent additions to or expansions of a particular structure. Nothing in this section shall be
13 construed to confer any right on ~~[a rural electric cooperative]~~ **an electric supplier** to serve new
14 structures on a particular tract of land because it was serving an existing structure on that tract.

15 2. Once a rural electric cooperative, or its predecessor in interest, lawfully commences
16 supplying retail electric energy to a structure through permanent service facilities, it shall have
17 the right to continue serving such structure, and other suppliers of electrical energy shall not have
18 the right to provide service to the structure except as might be otherwise permitted in the context
19 of municipal annexation, pursuant to section 386.800 and section 394.080, or pursuant to a
20 territorial agreement approved under section 394.312. The public service commission, upon
21 application made by an affected party, may order a change of suppliers on the basis that it is in
22 the public interest for a reason other than a rate differential, and the commission is hereby given
23 jurisdiction over rural electric cooperatives to accomplish the purpose of this section. The
24 commission's jurisdiction under this section is limited to public interest determinations and
25 excludes questions as to the lawfulness of the provision of service, such questions being reserved
26 to courts of competent jurisdiction. Except as provided herein, nothing in this section shall be
27 construed as otherwise conferring upon the commission jurisdiction over the service, rates,
28 financing, accounting or management of any such cooperative, and except as provided in this
29 section, nothing contained herein shall affect the rights, privileges or duties of existing
30 cooperatives pursuant to this chapter. Nothing in this section shall be construed to make lawful
31 any provision of service which was unlawful prior to July 11, 1991. Nothing in this section shall
32 be construed to make unlawful the continued lawful provision of service to any structure which
33 may have had a different supplier in the past, if such a change in supplier was lawful at the time
34 it occurred. However, those customers who had cancelled service with their previous supplier
35 or had requested cancellation by May 1, 1991, shall be eligible to change suppliers as per

36 previous procedures. No customer shall be allowed to change electric suppliers by disconnecting
37 service between May 1, 1991, and July 11, 1991.

38 **3. Notwithstanding the provisions of this section and sections 91.025, 393.106, and**
39 **394.080 to the contrary, in the event that a retail electric supplier is providing service to**
40 **a structure located within a city, town, or village that has ceased to be a rural area, and**
41 **such structure is demolished and replaced by a new structure, such retail electric service**
42 **supplier may provide permanent service to the new structure upon the request of the**
43 **owner of the new structure.**

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