

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE SUBSTITUTE FOR

SENATE BILL NO. 141

101ST GENERAL ASSEMBLY

1070H.07C

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 393.135, 393.170, 393.1025, 394.120, and 523.262, RSMo, and to enact in lieu thereof eight new sections relating to utilities.

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

Section A. Sections 393.135, 393.170, 393.1025, 394.120, and 523.262, RSMo, are repealed and eight new sections enacted in lieu thereof, to be known as sections 67.309, 386.895, 393.135, 393.170, 393.1025, 393.1250, 394.120, and 523.262, to read as follows:

67.309. No political subdivision of this state, including any referenced in section 386.020, 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.

386.895. 1. As used in this section the following terms shall mean:

- (1) "Biogas", a mixture of carbon dioxide and hydrocarbons, primarily methane gas, released from the biological decomposition of organic materials;**
- (2) "Biomass", has the meaning given the term "qualified biomass" in section 142.028;**
- (3) "Gas corporation", the same as defined in section 386.020;**
- (4) "Qualified investment", any capital investment in renewable natural gas infrastructure incurred by a gas corporation for the purpose of providing natural gas service under a renewable natural gas program;**

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.

10 (5) "Renewable energy sources", hydroelectric, geothermal, solar photovoltaic,
11 wind, tidal, wave, biomass, or biogas energy sources;

12 (6) "Renewable natural gas", any of the following products processed to meet
13 pipeline quality standards or transportation fuel grade requirements:

14 (a) Biogas that is upgraded to meet natural gas pipeline quality standards such that
15 it may blend with, or substitute for, geologic natural gas;

16 (b) Hydrogen gas; or

17 (c) Methane gas derived from any combination of:

18 a. Biogas;

19 b. Hydrogen gas or carbon oxides derived from renewable energy sources; or

20 c. Waste carbon dioxide;

21 (7) "Renewable natural gas infrastructure", all equipment and facilities for the
22 production, processing, pipeline interconnection, and distribution of renewable natural gas
23 to be furnished to Missouri customers.

24 2. The commission shall adopt rules for gas corporations to offer a voluntary
25 renewable natural gas program. Rules adopted by the commission under this section shall
26 include:

27 (1) Rules for reporting requirements; and

28 (2) Rules for establishing a process for gas corporations to fully recover incurred
29 costs that are prudent, just, and reasonable associated with a renewable natural gas
30 program. Such recovery shall not be permitted until the project is operational.

31 3. A filing by a gas corporation pursuant to the renewable natural gas program
32 created in subsection 2 of this section shall include, but is not limited to:

33 (1) A proposal to procure a total volume of renewable natural gas over a specific
34 period; and

35 (2) Identification of the qualified investments that the gas corporation may make
36 in renewable natural gas infrastructure.

37 4. A gas corporation may from time to time revise the filing submitted to the
38 commission under this section.

39 5. Any costs incurred by a gas corporation for qualified investment that are
40 prudent, just, and reasonable may be recovered by means of an automatic rate adjustment
41 clause.

42 6. When a gas corporation makes a qualified investment in the production of
43 renewable natural gas, the costs associated with such qualified investment shall include the
44 cost of capital established by the commission in the gas corporation's most recent general
45 rate case.

46 **7. Rules adopted by the commission under this section shall not prohibit an affiliate**
47 **of a gas corporation from making a capital investment in a biogas production project if the**
48 **affiliate is not a public utility as defined in section 386.020.**

49 **8. The public service commission may promulgate rules to implement the provisions**
50 **of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that**
51 **is created under the authority delegated in this section shall become effective only if it**
52 **complies with and is subject to all of the provisions of chapter 536 and, if applicable,**
53 **section 536.028. This section and chapter 536 are nonseverable and if any of the powers**
54 **vested with the general assembly pursuant to chapter 536 to review, to delay the effective**
55 **date, or to disapprove and annul a rule are subsequently held unconstitutional, then the**
56 **grant of rulemaking authority and any rule proposed or adopted after August 28, 2021,**
57 **shall be invalid and void.**

 393.135. **Except as provided in section 393.1250,** any charge made or demanded by
2 an electrical corporation for service, or in connection therewith, which is based on the costs of
3 construction **work** in progress, **as that term is defined in section 393.1250,** upon any existing
4 or new ~~[facility of the]~~ electrical corporation **facility,** or any other cost associated with owning,
5 operating, maintaining, or financing any **such** property before it is fully operational and used for
6 service~~[- is unjust and unreasonable, and]~~ is prohibited.

 393.170. 1. No gas corporation, electrical corporation, water corporation or sewer
2 corporation shall begin construction of a gas plant, electric plant, water system or sewer system,
3 other than an energy generation unit that has a capacity of one megawatt or less, without first
4 having obtained the permission and approval of the commission.

5 2. No such corporation shall exercise any right or privilege under any franchise hereafter
6 granted, or under any franchise heretofore granted but not heretofore actually exercised, or the
7 exercise of which shall have been suspended for more than one year, without first having
8 obtained the permission and approval of the commission. Before such certificate shall be issued
9 a certified copy of the charter of such corporation shall be filed in the office of the commission,
10 together with a verified statement of the president and secretary of the corporation, showing that
11 it has received the required consent of the proper municipal authorities.

12 3. **(1) Before the commission shall issue an approval under subsection 1 of this**
13 **section for a merchant line, an entity shall provide the commission a resolution of support**
14 **passed by the county commission of each county through which the merchant line will be**
15 **built. Any entity that begins construction on a merchant line after August 28, 2021, shall**
16 **provide the required resolutions to the commission prior to construction, regardless of**
17 **whether the commission has previously issued its approval.**

18 **(2) For the purposes of this subsection, the following terms mean:**

19 (a) "Entity", an electrical corporation that does not provide service to end-use
 20 customers or provide retail service in Missouri or does not collect its costs to provide
 21 service under a regional transmission organization tariff;

22 (b) "Merchant line", a high-voltage direct current electric transmission line that
 23 does not provide for the erection of electric substations at intervals of less than fifty miles,
 24 which substations are necessary to accommodate both the purchase and sale to persons
 25 located in this state of electricity generated or transmitted by such entity.

26 4. The commission shall have the power to grant the permission and approval herein
 27 specified whenever it shall after due hearing determine that such construction or such exercise
 28 of the right, privilege or franchise is necessary or convenient for the public service. The
 29 commission may by its order impose such condition or conditions as it may deem reasonable and
 30 necessary. Unless exercised within a period of two years from the grant thereof, authority
 31 conferred by such certificate of convenience and necessity issued by the commission shall be null
 32 and void.

393.1025. As used in sections 393.1020 to 393.1030, the following terms mean:

- 2 (1) "Commission", the public service commission;
- 3 (2) "Department", the department of economic development;
- 4 (3) "Electric utility", any electrical corporation as defined by section 386.020;
- 5 (4) "Renewable energy credit" or "REC", a tradeable certificate of proof that one
 6 megawatt-hour of electricity has been generated from renewable energy sources; and
- 7 (5) "Renewable energy resources", electric energy produced from wind, solar thermal
 8 sources, photovoltaic cells and panels, dedicated crops grown for energy production, cellulosic
 9 agricultural residues, plant residues, methane from landfills, from agricultural operations, or from
 10 wastewater treatment, thermal depolymerization or pyrolysis for converting waste material to
 11 energy, clean and untreated wood such as pallets, hydropower (not including pumped storage)
 12 that does not require a new diversion or impoundment of water [~~and that has a nameplate rating~~
 13 ~~of ten megawatts or less~~], fuel cells using hydrogen produced by one of the above-named
 14 renewable energy sources, and other sources of energy not including nuclear that become
 15 available after November 4, 2008, and are certified as renewable by rule by the department.

**393.1250. 1. This section shall be known and may be cited as the "Missouri Nuclear
 2 Clean Power Act", the purpose of which is to enable the construction of clean baseload
 3 electric generating plants or facilities that utilize renewable sources to produce energy.
 4 This section shall not apply to clean baseload electric generating plants or renewable
 5 source generating facilities that are in commercial operation before August 28, 2021.**

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

7 (1) "Clean baseload generating plant", a new nuclear-fueled electric generating
8 facility located in this state that is designed to be operated at a capacity factor exceeding
9 seventy percent annually and is intended in whole or in part to serve retail customers of
10 an electrical corporation in Missouri;

11 (2) "Construction work in progress", the electrical corporation's share of all capital
12 costs associated with a clean baseload generating plant or renewable source generating
13 facility, which have been incurred but have not been included in the electrical
14 corporation's plant in service, and are recorded in the Federal Energy Regulatory
15 Commission's Uniform System of Accounts Prescribed for Public Utilities and Licensees
16 Subject to the Provisions of the Federal Power Act, Balance Sheet Chart Accounts, as
17 construction work in progress for electric plants in 18 CFR Part 101, or any other account
18 established in the Uniform System of Accounts for the recording of construction work in
19 progress;

20 (3) "Renewable source generating facility", any electric generating facility powered
21 by wind, hydropower, solar power, landfill methane, biomass, or any other renewable
22 source of power that does not produce significant carbon emissions.

23 3. The provisions of section 393.135 shall not apply to a clean baseload generating
24 plant or a renewable source generating facility if the plant or facility is rated at two
25 hundred megawatts or more. Costs recovered by an electrical corporation under the
26 provisions of this section are subject to inclusion or exclusion from rates in a rate-making
27 proceeding pursuant to the commission's authority to determine just and reasonable rates.
28 In addition, the commission may authorize an electrical corporation to make or demand
29 charges for service based in whole or in part on additional amortizations to maintain the
30 electrical corporation's financial ratios that will, in the commission's judgment, better
31 enable the electrical corporation to cost-effectively construct a clean baseload generating
32 plant or a renewable source generating facility.

33 4. The commission may promulgate rules to assist in the implementation of this
34 section. Any rule or portion of a rule, as that term is defined in section 536.010, that is
35 created under the authority delegated in this section shall become effective only if it
36 complies with and is subject to all of the provisions of chapter 536 and, if applicable,
37 section 536.028. This section and chapter 536 are nonseverable, and if any of the powers
38 vested with the general assembly pursuant to chapter 536 to review, to delay the effective
39 date, or to disapprove and annul a rule are subsequently held unconstitutional, then the
40 grant of rulemaking authority and any rule proposed or adopted after August 28, 2021,
41 shall be invalid and void.

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, mail, or any combination thereof, and to**
36 **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.**

523.262. 1. Except as set forth in subsection 2 of this section, the power of eminent
2 domain shall only be vested in governmental bodies or agencies whose governing body is elected
3 or whose governing body is appointed by elected officials or in an urban redevelopment
4 corporation operating pursuant to a redevelopment agreement with the municipality for a
5 particular redevelopment area, which agreement was executed prior to or on December 31, 2006.

6 2. A private utility company, public utility, rural electric cooperative, municipally owned
7 utility, pipeline, railroad or common carrier shall have the power of eminent domain as may be
8 granted pursuant to the provisions of other sections of the revised statutes of Missouri. For the
9 purposes of this section, the term "common carrier" shall not include motor carriers, contract
10 carriers, or express companies. Where a condemnation by such an entity results in a displaced
11 person, as defined in section 523.200, the provisions of subsections 3 and 6 to 10 of section
12 523.205 shall apply unless the condemning entity is subject to the relocation assistance
13 provisions of the federal Uniform Relocation Assistance Act.

14 3. Any entity with the power of eminent domain and pursuing the acquisition of property
15 for the purpose of constructing a power generation facility after December 31, 2006, after
16 providing notice in a newspaper of general circulation in the county where the facility is to be
17 constructed, shall conduct a public meeting disclosing the purpose of the proposed facility prior
18 to making any offer to purchase property in pursuit thereof or, alternatively, shall provide the
19 property owner with notification of the identity of the condemning authority and the proposed
20 purpose for which the condemned property shall be used at the time of making the initial offer.

21 **4. (1) Notwithstanding the provisions of subsection 2 of this section, no entity shall**
22 **have the power of eminent domain under the provisions of this section for the purpose of**
23 **constructing above-ground merchant lines.**

24 **(2) For the purpose of this subsection, the following terms mean:**

25 **(a) "Entity", a utility company that does not provide service to end-use customers**
26 **or provide retail service in Missouri, or does not collect its costs to provide service under**
27 **a regional transmission organization tariff, regardless of whether it has received a**
28 **certificate of convenience and necessity from the public service commission under section**
29 **393.170;**

30 **(b) "Merchant line", a high-voltage direct current electric transmission line that**
31 **does not provide for the erection of electric substations at intervals of less than fifty miles,**
32 **which substations are necessary to accommodate both the purchase and sale to persons**
33 **located in this state of electricity generated or transmitted by such entity.**

34 **(3) This subsection shall apply to any property or easement acquisition started on**
35 **or after August 28, 2021.**

36 **(4) This subsection shall not apply to any rural electric cooperative organized or**
37 **operating under the provisions of chapter 394, or to any corporation organized on a**
38 **nonprofit or a cooperative basis as described in subsection 1 of section 394.200, or to any**
39 **electrical corporation operating under a cooperative business plan as described in**
40 **subsection 2 of section 393.110.**

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