

FIRST REGULAR SESSION

SENATE COMMITTEE SUBSTITUTE FOR

SENATE BILL NO. 184

101ST GENERAL ASSEMBLY

0955S.02C

ADRIANE D. CROUSE, Secretary

AN ACT

To repeal sections 386.020 and 523.010, RSMo, and to enact in lieu thereof three new sections relating to broadband operations and services using electrical corporation broadband infrastructure.

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

Section A. Sections 386.020 and 523.010, RSMo, are
2 repealed and three new sections enacted in lieu thereof, to be
3 known as sections 386.020, 393.1420, and 523.010, to read as
4 follows:

386.020. As used in this chapter, the following words
2 and phrases mean:

3 (1) "Alternative local exchange telecommunications
4 company", a local exchange telecommunications company
5 certified by the commission to provide basic or nonbasic
6 local telecommunications service or switched exchange access
7 service, or any combination of such services, in a specific
8 geographic area subsequent to December 31, 1995;

9 (2) "Alternative operator services company", any
10 certificated interexchange telecommunications company which
11 receives more than forty percent of its annual Missouri
12 intrastate telecommunications service revenues from the
13 provision of operator services pursuant to operator services
14 contracts with traffic aggregators;

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

15 (3) "Basic interexchange telecommunications service"
16 includes, at a minimum, two-way switched voice service
17 between points in different local calling scopes as
18 determined by the commission and shall include other
19 services as determined by the commission by rule upon
20 periodic review and update;

21 (4) "Basic local telecommunications service", two-way
22 switched voice service within a local calling scope as
23 determined by the commission comprised of any of the
24 following services and their recurring and nonrecurring
25 charges:

26 (a) Multiparty, single line, including installation,
27 touchtone dialing, and any applicable mileage or zone
28 charges;

29 (b) Assistance programs for installation of, or access
30 to, basic local telecommunications services for qualifying
31 economically disadvantaged or disabled customers or both,
32 including, but not limited to, lifeline services and link-up
33 Missouri services for low-income customers or dual-party
34 relay service for the hearing impaired and speech impaired;

35 (c) Access to local emergency services including, but
36 not limited to, 911 service established by local authorities;

37 (d) Access to basic local operator services;

38 (e) Access to basic local directory assistance;

39 (f) Standard intercept service;

40 (g) Equal access to interexchange carriers consistent
41 with rules and regulations of the Federal Communications
42 Commission;

43 (h) One standard white pages directory listing.

44 Basic local telecommunications service does not include
45 optional toll-free calling outside a local calling scope but

46 within a community of interest, available for an additional
47 monthly fee or the offering or provision of basic local
48 telecommunications service at private shared-tenant service
49 locations;

50 (5) "Cable television service", the one-way
51 transmission to subscribers of video programming or other
52 programming service and the subscriber interaction, if any,
53 which is required for the selection of such video
54 programming or other programming service;

55 (6) "Carrier of last resort", any telecommunications
56 company which is obligated to offer basic local
57 telecommunications service to all customers who request
58 service in a geographic area defined by the commission and
59 cannot abandon this obligation without approval from the
60 commission;

61 (7) "Commission", the "Public Service Commission"
62 hereby created;

63 (8) "Commissioner", one of the members of the
64 commission;

65 (9) "Competitive telecommunications company", a
66 telecommunications company which has been classified as such
67 by the commission pursuant to section 392.245 or 392.361;

68 (10) "Competitive telecommunications service", a
69 telecommunications service which has been classified as such
70 by the commission pursuant to section 392.245 or to section
71 392.361, or which has become a competitive
72 telecommunications service pursuant to section 392.370;

73 (11) "Corporation" includes a corporation, company,
74 association and joint stock association or company;

75 (12) "Customer-owned pay telephone", a privately owned
76 telecommunications device that is not owned, leased or
77 otherwise controlled by a local exchange telecommunications

78 company and which provides telecommunications services for a
79 use fee to the general public;

80 (13) "Effective competition" shall be determined by
81 the commission based on:

82 (a) The extent to which services are available from
83 alternative providers in the relevant market;

84 (b) The extent to which the services of alternative
85 providers are functionally equivalent or substitutable at
86 comparable rates, terms and conditions;

87 (c) The extent to which the purposes and policies of
88 chapter 392, including the reasonableness of rates, as set
89 out in section 392.185, are being advanced;

90 (d) Existing economic or regulatory barriers to entry;
91 and

92 (e) Any other factors deemed relevant by the
93 commission and necessary to implement the purposes and
94 policies of chapter 392;

95 (14) "Electric plant" includes all real estate,
96 fixtures and personal property operated, controlled, owned,
97 used or to be used for or in connection with or to
98 facilitate the generation, transmission, distribution, sale
99 or furnishing of electricity for light, heat or power; and
100 any conduits, ducts or other devices, materials, apparatus
101 or property for containing, holding or carrying conductors
102 used or to be used for the transmission of electricity for
103 light, heat or power; **and broadband infrastructure operated,**
104 **controlled, owned, used, or to be used for, in connection**
105 **with, or to facilitate the provision of electric service,**
106 **broadband operations, or broadband service. For purposes of**
107 **this subdivision, "broadband infrastructure", "broadband**
108 **operations", and "broadband service" mean the same as in**
109 **subsection 2 of section 393.1420;**

110 (15) "Electrical corporation" includes every
111 corporation, company, association, joint stock company or
112 association, partnership and person, their lessees, trustees
113 or receivers appointed by any court whatsoever, other than a
114 railroad, light rail or street railroad corporation
115 generating electricity solely for railroad, light rail or
116 street railroad purposes or for the use of its tenants and
117 not for sale to others, owning, operating, controlling or
118 managing any electric plant except where electricity is
119 generated or distributed by the producer solely on or
120 through private property for railroad, light rail or street
121 railroad purposes or for its own use or the use of its
122 tenants and not for sale to others. The term "electrical
123 corporation" shall not include:

124 (a) Municipally owned electric utilities operating
125 under chapter 91;

126 (b) Rural electric cooperatives operating under
127 chapter 394;

128 (c) Persons or corporations not otherwise engaged in
129 the production or sale of electricity at wholesale or retail
130 that sell, lease, own, control, operate, or manage one or
131 more electric vehicle charging stations;

132 (16) "Exchange", a geographical area for the
133 administration of telecommunications services, established
134 and described by the tariff of a telecommunications company
135 providing basic local telecommunications service;

136 (17) "Exchange access service", a service provided by
137 a local exchange telecommunications company which enables a
138 telecommunications company or other customer to enter and
139 exit the local exchange telecommunications network in order
140 to originate or terminate interexchange telecommunications
141 service;

142 (18) "Gas corporation" includes every corporation,
143 company, association, joint stock company or association,
144 partnership and person, their lessees, trustees or receivers
145 appointed by any court whatsoever, owning, operating,
146 controlling or managing any gas plant operating for public
147 use under privilege, license or franchise now or hereafter
148 granted by the state or any political subdivision, county or
149 municipality thereof;

150 (19) "Gas plant" includes all real estate, fixtures
151 and personal property owned, operated, controlled, used or
152 to be used for or in connection with or to facilitate the
153 manufacture, distribution, sale or furnishing of gas,
154 natural or manufactured, for light, heat or power;

155 (20) "Heating company" includes every corporation,
156 company, association, joint stock company or association,
157 partnership and person, their lessees, trustees or
158 receivers, appointed by any court whatsoever, owning,
159 operating, managing or controlling any plant or property for
160 manufacturing and distributing and selling, for
161 distribution, or distributing hot or cold water, steam or
162 currents of hot or cold air for motive power, heating,
163 cooking, or for any public use or service, in any city, town
164 or village in this state; provided, that no agency or
165 authority created by or operated pursuant to an interstate
166 compact established pursuant to section 70.370 shall be a
167 heating company or subject to regulation by the commission;

168 (21) "High-cost area", a geographic area, which shall
169 follow exchange boundaries and be no smaller than an
170 exchange nor larger than a local calling scope, where the
171 cost of providing basic local telecommunications service as
172 determined by the commission, giving due regard to recovery
173 of an appropriate share of joint and common costs as well as

174 those costs related to carrier of last resort obligations,
175 exceeds the rate for basic local telecommunications service
176 found reasonable by the commission;

177 (22) "Incumbent local exchange telecommunications
178 company", a local exchange telecommunications company
179 authorized to provide basic local telecommunications service
180 in a specific geographic area as of December 31, 1995, or a
181 successor in interest to such a company;

182 (23) "Interconnected voice over internet protocol
183 service", service that:

184 (a) Enables real-time, two-way voice communications;

185 (b) Requires a broadband connection from the user's
186 location;

187 (c) Requires internet protocol-compatible customer
188 premises equipment; and

189 (d) Permits users generally to receive calls that
190 originate on the public switched telephone network and to
191 terminate calls to the public switched telephone network;

192 (24) "Interexchange telecommunications company", any
193 company engaged in the provision of interexchange
194 telecommunications service;

195 (25) "Interexchange telecommunications service",
196 telecommunications service between points in two or more
197 exchanges;

198 (26) "InterLATA", interexchange telecommunications
199 service between points in different local access and
200 transportation areas;

201 (27) "IntraLATA", interexchange telecommunications
202 service between points within the same local access and
203 transportation area;

204 (28) "Light rail" includes every rail transportation
205 system in which one or more rail vehicles are propelled

206 electrically by overhead catenary wire upon tracks located
207 substantially within an urban area and are operated
208 exclusively in the transportation of passengers and their
209 baggage, and including all bridges, tunnels, equipment,
210 switches, spurs, tracks, stations, used in connection with
211 the operation of light rail;

212 (29) "Line" includes route;

213 (30) "Local access and transportation area" or "LATA",
214 contiguous geographic area approved by the U.S. District
215 Court for the District of Columbia in United States v.
216 Western Electric, Civil Action No. 82-0192 that defines the
217 permissible areas of operations for the Bell Operating
218 companies;

219 (31) "Local exchange telecommunications company", any
220 company engaged in the provision of local exchange
221 telecommunications service. A local exchange
222 telecommunications company shall be considered a "large
223 local exchange telecommunications company" if it has at
224 least one hundred thousand access lines in Missouri and a
225 "small local exchange telecommunications company" if it has
226 less than one hundred thousand access lines in Missouri;

227 (32) "Local exchange telecommunications service",
228 telecommunications service between points within an exchange;

229 (33) "Long-run incremental cost", the change in total
230 costs of the company of producing an increment of output in
231 the long run when the company uses least cost technology,
232 and excluding any costs that, in the long run, are not
233 brought into existence as a direct result of the increment
234 of output. The relevant increment of output shall be the
235 level of output necessary to satisfy total current demand
236 levels for the service in question, or, for new services,
237 demand levels that can be demonstrably anticipated;

238 (34) "Municipality" includes a city, village or town;

239 (35) "Nonbasic telecommunications services" shall be
240 all regulated telecommunications services other than basic
241 local and exchange access telecommunications services, and
242 shall include the services identified in paragraphs (d) and
243 (e) of subdivision (4) of this section. Any retail
244 telecommunications service offered for the first time after
245 August 28, 1996, shall be classified as a nonbasic
246 telecommunications service, including any new service which
247 does not replace an existing service;

248 (36) "Noncompetitive telecommunications company", a
249 telecommunications company other than a competitive
250 telecommunications company or a transitionally competitive
251 telecommunications company;

252 (37) "Noncompetitive telecommunications service", a
253 telecommunications service other than a competitive or
254 transitionally competitive telecommunications service;

255 (38) "Operator services", operator-assisted
256 interexchange telecommunications service by means of either
257 human or automated call intervention and includes, but is
258 not limited to, billing or completion of calling card,
259 collect, person-to-person, station-to-station or third
260 number billed calls;

261 (39) "Operator services contract", any agreement
262 between a traffic aggregator and a certificated
263 interexchange telecommunications company to provide operator
264 services at a traffic aggregator location;

265 (40) "Person" includes an individual, and a firm or
266 copartnership;

267 (41) "Private shared tenant services" includes the
268 provision of telecommunications and information management
269 services and equipment within a user group located in

270 discrete private premises as authorized by the commission by
271 a commercial-shared services provider or by a user
272 association, through privately owned customer premises
273 equipment and associated data processing and information
274 management services and includes the provision of
275 connections to the facilities of local exchange
276 telecommunications companies and to interexchange
277 telecommunications companies;

278 (42) "Private telecommunications system", a
279 telecommunications system controlled by a person or
280 corporation for the sole and exclusive use of such person,
281 corporation or legal or corporate affiliate thereof;

282 (43) "Public utility" includes every pipeline
283 corporation, gas corporation, electrical corporation,
284 telecommunications company, water corporation, heating
285 company or refrigerating corporation, and sewer corporation,
286 as these terms are defined in this section, and each thereof
287 is hereby declared to be a public utility and to be subject
288 to the jurisdiction, control and regulation of the
289 commission and to the provisions of this chapter;

290 (44) "Railroad" includes every railroad and railway,
291 other than street railroad or light rail, by whatsoever
292 power operated for public use in the conveyance of persons
293 or property for compensation, with all bridges, ferries,
294 tunnels, equipment, switches, spurs, tracks, stations, real
295 estate and terminal facilities of every kind used, operated,
296 controlled or owned by or in connection with any such
297 railroad;

298 (45) "Railroad corporation" includes every
299 corporation, company, association, joint stock company or
300 association, partnership and person, their lessees, trustees
301 or receivers appointed by any court whatsoever, owning,

302 holding, operating, controlling or managing any railroad as
303 defined in this section, or any cars or other equipment used
304 thereon or in connection therewith;

305 (46) "Rate", every individual or joint rate, fare,
306 toll, charge, reconsigning charge, switching charge, rental
307 or other compensation of any corporation, person or public
308 utility, or any two or more such individual or joint rates,
309 fares, tolls, charges, reconsigning charges, switching
310 charges, rentals or other compensations of any corporation,
311 person or public utility or any schedule or tariff thereof;

312 (47) "Resale of telecommunications service", the
313 offering or providing of telecommunications service
314 primarily through the use of services or facilities owned or
315 provided by a separate telecommunications company, but does
316 not include the offering or providing of private shared
317 tenant services;

318 (48) "Service" includes not only the use and
319 accommodations afforded consumers or patrons, but also any
320 product or commodity furnished by any corporation, person or
321 public utility and the plant, equipment, apparatus,
322 appliances, property and facilities employed by any
323 corporation, person or public utility in performing any
324 service or in furnishing any product or commodity and
325 devoted to the public purposes of such corporation, person
326 or public utility, and to the use and accommodation of
327 consumers or patrons;

328 (49) "Sewer corporation" includes every corporation,
329 company, association, joint stock company or association,
330 partnership or person, their lessees, trustees or receivers
331 appointed by any court, owning, operating, controlling or
332 managing any sewer system, plant or property, for the
333 collection, carriage, treatment, or disposal of sewage

334 anywhere within the state for gain, except that the term
335 shall not include sewer systems with fewer than twenty-five
336 outlets;

337 (50) "Sewer system" includes all pipes, pumps, canals,
338 lagoons, plants, structures and appliances, and all other
339 real estate, fixtures and personal property, owned,
340 operated, controlled or managed in connection with or to
341 facilitate the collection, carriage, treatment and disposal
342 of sewage for municipal, domestic or other beneficial or
343 necessary purpose;

344 (51) "Street railroad" includes every railroad by
345 whatsoever type of power operated, and all extensions and
346 branches thereof and supplementary facilities thereto by
347 whatsoever type of vehicle operated, for public use in the
348 conveyance of persons or property for compensation, mainly
349 providing local transportation service upon the streets,
350 highways and public places in a municipality, or in and
351 adjacent to a municipality, and including all cars, buses
352 and other rolling stock, equipment, switches, spurs, tracks,
353 poles, wires, conduits, cables, subways, tunnels, stations,
354 terminals and real estate of every kind used, operated or
355 owned in connection therewith but this term shall not
356 include light rail as defined in this section; and the term
357 "street railroad" when used in this chapter shall also
358 include all motor bus and trolley bus lines and routes and
359 similar local transportation facilities, and the rolling
360 stock and other equipment thereof and the appurtenances
361 thereto, when operated as a part of a street railroad or
362 trolley bus local transportation system, or in conjunction
363 therewith or supplementary thereto, but such term shall not
364 include a railroad constituting or used as part of a trunk
365 line railroad system and any street railroad as defined

366 above which shall be converted wholly to motor bus operation
367 shall nevertheless continue to be included within the term
368 street railroad as used herein;

369 (52) "Telecommunications company" includes telephone
370 corporations as that term is used in the statutes of this
371 state and every corporation, company, association, joint
372 stock company or association, partnership and person, their
373 lessees, trustees or receivers appointed by any court
374 whatsoever, owning, operating, controlling or managing any
375 facilities used to provide telecommunications service for
376 hire, sale or resale within this state;

377 (53) "Telecommunications facilities" includes lines,
378 conduits, ducts, poles, wires, cables, crossarms, receivers,
379 transmitters, instruments, machines, appliances and all
380 devices, real estate, easements, apparatus, property and
381 routes used, operated, controlled or owned by any
382 telecommunications company to facilitate the provision of
383 telecommunications service;

384 (54) "Telecommunications service", the transmission of
385 information by wire, radio, optical cable, electronic
386 impulses, or other similar means. As used in this
387 definition, "information" means knowledge or intelligence
388 represented by any form of writing, signs, signals,
389 pictures, sounds, or any other symbols. Telecommunications
390 service does not include:

391 (a) The rent, sale, lease, or exchange for other value
392 received of customer premises equipment except for customer
393 premises equipment owned by a telephone company certificated
394 or otherwise authorized to provide telephone service prior
395 to September 28, 1987, and provided under tariff or in
396 inventory on January 1, 1983, which must be detariffed no
397 later than December 31, 1987, and thereafter the provision

398 of which shall not be a telecommunications service, and
399 except for customer premises equipment owned or provided by
400 a telecommunications company and used for answering 911 or
401 emergency calls;

402 (b) Answering services and paging services;

403 (c) The offering of radio communication services and
404 facilities when such services and facilities are provided
405 under a license granted by the Federal Communications
406 Commission under the commercial mobile radio services rules
407 and regulations;

408 (d) Services provided by a hospital, hotel, motel, or
409 other similar business whose principal service is the
410 provision of temporary lodging through the owning or
411 operating of message switching or billing equipment solely
412 for the purpose of providing at a charge telecommunications
413 services to its temporary patients or guests;

414 (e) Services provided by a private telecommunications
415 system;

416 (f) Cable television service;

417 (g) The installation and maintenance of inside wire
418 within a customer's premises;

419 (h) Electronic publishing services;

420 (i) Services provided pursuant to a broadcast radio or
421 television license issued by the Federal Communications
422 Commission; or

423 (j) Interconnected voice over internet protocol
424 service;

425 (55) "Telephone cooperative", every corporation
426 defined as a telecommunications company in this section, in
427 which at least ninety percent of those persons and
428 corporations subscribing to receive local telecommunications
429 service from the corporation own at least ninety percent of

430 the corporation's outstanding and issued capital stock and
431 in which no subscriber owns more than two shares of the
432 corporation's outstanding and issued capital stock;

433 (56) "Traffic aggregator", any person, firm,
434 partnership or corporation which furnishes a telephone for
435 use by the public and includes, but is not limited to,
436 telephones located in rooms, offices and similar locations
437 in hotels, motels, hospitals, colleges, universities,
438 airports and public or customer-owned pay telephone
439 locations, whether or not coin operated;

440 (57) "Transitionally competitive telecommunications
441 company", an interexchange telecommunications company which
442 provides any noncompetitive or transitionally competitive
443 telecommunications service, except for an interexchange
444 telecommunications company which provides only
445 noncompetitive telecommunications service;

446 (58) "Transitionally competitive telecommunications
447 service", a telecommunications service offered by a
448 noncompetitive or transitionally competitive
449 telecommunications company and classified as transitionally
450 competitive by the commission pursuant to section 392.361 or
451 392.370;

452 (59) "Water corporation" includes every corporation,
453 company, association, joint stock company or association,
454 partnership and person, their lessees, trustees, or
455 receivers appointed by any court whatsoever, owning,
456 operating, controlling or managing any plant or property,
457 dam or water supply, canal, or power station, distributing
458 or selling for distribution, or selling or supplying for
459 gain any water;

460 (60) "Water system" includes all reservoirs, tunnels,
461 shafts, dams, dikes, headgates, pipes, flumes, canals,

462 structures and appliances, and all other real estate,
463 fixtures and personal property, owned, operated, controlled
464 or managed in connection with or to facilitate the
465 diversion, development, storage, supply, distribution, sale,
466 furnishing or carriage of water for municipal, domestic or
467 other beneficial use.

393.1420. 1. This section shall be known and may be
2 cited as the "Electrical Corporation Broadband Authorization
3 Act".

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

6 (1) "Broadband infrastructure", any and all component
7 parts of an electrical corporation's infrastructure that may
8 be used to provide broadband services, whether now existing
9 or that may be developed in the future, and including, but
10 not limited to, wires, copper cables, fiber optic cables,
11 conduits, ducts, poles, antennas, transmitters, receivers,
12 amplifiers, switches, multiplexers, routers, servers, and
13 all appurtenances thereto so long as such component parts
14 are associated with a three hundred forty-five kilovolt or
15 similarly sized electric transmission line;

16 (2) "Broadband operations", operation of all or any
17 portion of an electrical corporation's broadband
18 infrastructure in a manner that can be used by broadband
19 services providers to provide broadband services;

20 (3) "Broadband services":

21 (a) The provision of access to dark fiber within fiber
22 optic cables, whether directly to end-use customers, or to
23 third parties for the third party's subsequent provision of
24 access to such dark fiber to end-use customers; or

25 (b) The provision to third parties who are not end-use
26 customers, for the third party's subsequent provision to end-

27 use customers, of connectivity, via lit fiber or other
28 components of the broadband infrastructure, whether to a
29 data or information transmission medium, or to a technology,
30 and in either case for purposes of accessing the internet or
31 providing other capabilities including, but not limited to,
32 information sharing, information storage, information
33 content, or protocol conversion;

34 (4) "Broadband services provider", a person that is
35 not majority-owned or otherwise controlled by an electrical
36 corporation that uses an electrical corporation's broadband
37 infrastructure to provide broadband services;

38 (5) "Commission", the public service commission;

39 (6) "Electrical corporation", the same as defined in
40 section 386.020.

41 3. (1) To the extent not otherwise authorized by law,
42 and in addition to all other purposes for which electrical
43 corporations may be formed under the laws of this state and
44 all other powers and authority currently granted to
45 electrical corporations under the laws of this state, an
46 electrical corporation shall be authorized to do any or all
47 of the following:

48 (a) Own, construct, install, maintain, repair, and
49 replace broadband infrastructure;

50 (b) Operate the electrical corporation's broadband
51 infrastructure for or in connection with the electrical
52 corporation's provision of electric service;

53 (c) Engage in broadband operations, or permit a
54 broadband services provider to engage in broadband
55 operations, using the electrical corporation's broadband
56 infrastructure;

57 (d) Permit a broadband services provider to provide
58 broadband services, using the electrical corporation's
59 broadband infrastructure; and

60 (e) Enter into contracts, leases, licenses, or other
61 agreements, concerning broadband operations or broadband
62 services, with broadband services providers, or third
63 parties, on any terms and conditions, including rates and
64 charges, as the electrical corporation in its sole
65 discretion shall determine and, notwithstanding the
66 provisions of section 393.190 or any other law to the
67 contrary, without securing any authorization, permission, or
68 approval from the commission. Rates and charges shall be
69 standardized for all broadband services providers.

70 (2) An electrical corporation shall not require any of
71 its electric service customers to purchase broadband
72 services provided via the electrical corporation's broadband
73 infrastructure as a condition of receiving or continuing to
74 receive electric service from the electrical corporation.

75 (3) An electrical corporation shall not disconnect any
76 customer from receiving electric service due to the
77 customer's failure to pay for broadband services provided
78 via the electrical corporation's broadband infrastructure.

79 (4) An electrical corporation shall not provide
80 broadband services to end-use customers.

81 4. (1) As used in this subsection, "broadband
82 operations revenue" shall mean revenue received by an
83 electrical corporation for the provision of broadband
84 operations.

85 (2) When determining the revenue requirement used to
86 set the electrical corporation's base rates in the
87 electrical corporation's general rate proceedings, the
88 following shall be included:

89 (a) The electrical corporation's test year broadband
90 operations revenues, as updated, trued-up, or normalized, if
91 applicable;

92 (b) The electrical corporation's prudently-incurred
93 test year operations and maintenance expenditures associated
94 with generating the revenues in paragraph (a) of this
95 subdivision; and

96 (c) The electrical corporation's prudently-incurred
97 investment in broadband infrastructure as of the date the
98 electrical corporation's other rate base additions are
99 accounted for.

100 (3) Any ordinance adopted under section 71.520 or
101 section 229.100 shall also grant the electrical corporation
102 the right to construct, install, maintain, repair, and
103 replace broadband infrastructure; the right to engage in
104 broadband operations via the electrical corporation's
105 broadband infrastructure; and the right to provide broadband
106 services via the electrical corporation's broadband
107 infrastructure, through a broadband services provider, on
108 and subject to the terms and conditions of such ordinance.

109 5. Notwithstanding any provision of chapters 386 or
110 393 to the contrary, and consistent with the authority and
111 discretion granted to electrical corporations in paragraph
112 (e) of subdivision (1) of subsection 3 of this section, the
113 commission shall not have jurisdiction over the terms,
114 conditions, charges, contracts, leases, licenses, or other
115 agreements of an electrical corporation for the electrical
116 corporation's operations or provision of broadband services
117 through a broadband services provider.

523.010. 1. In case land, or other property, is
2 sought to be appropriated by any road, railroad, street
3 railway, telephone, telegraph or any electrical corporation

4 organized for the manufacture, **distribution**, or transmission
5 of electric current for light, heat, [or] power, **or the**
6 **provision of broadband services**, including the construction,
7 when that is the case, of necessary dams and appurtenant
8 canals, flumes, tunnels and tailraces and including the
9 erection, when that is the case, of necessary electric steam
10 powerhouses, hydroelectric powerhouses, and electric
11 substations or any oil, pipeline or gas corporation engaged
12 in the business of transporting or carrying oil, liquid
13 fertilizer solutions, or gas by means of pipes or pipelines
14 laid underneath the surface of the ground, or other
15 corporation created under the laws of this state for public
16 use, and such corporation and the owners cannot agree upon
17 the proper compensation to be paid, or in the case the owner
18 is incapable of contracting, be unknown, or be a nonresident
19 of the state, such corporation may apply to the circuit
20 court of the county of this state where such land or any
21 part thereof lies by petition setting forth the general
22 directions in which it is desired to construct its road,
23 railroad, street railway, telephone, or telegraph line or
24 electric line, including, when that is the case, the
25 construction and maintenance of necessary dams and
26 appurtenant canals, tunnels, flumes and tailraces and, when
27 that is the case, the appropriation of land submerged by the
28 construction of such dam, and including the erection and
29 maintenance, when that is the case, of necessary electric
30 steam powerhouses, hydroelectric powerhouses and electric
31 substations, **the construction of broadband infrastructure**,
32 or oil, pipeline, liquid fertilizer solution pipeline, or
33 gas line over or underneath the surface of such lands, a
34 description of the real estate, or other property, which the
35 company seeks to acquire; the names of the owners thereof,

36 if known; or if unknown, a pertinent description of the
37 property whose owners are unknown and praying the
38 appointment of three disinterested residents of the county,
39 as commissioners, or a jury, to assess the damages which
40 such owners may severally sustain in consequence of the
41 establishment, erection and maintenance of such road,
42 railroad, street railway, telephone, telegraph line, [or]
43 electrical line, **or broadband infrastructure** including
44 damages from the construction and maintenance of necessary
45 dams and the condemnation of land submerged thereby, and the
46 construction and maintenance of appurtenant canals, flumes,
47 tunnels and tailraces and the erection and maintenance of
48 necessary electric steam powerhouses, hydroelectric
49 powerhouses and electric substations, or oil, pipeline, or
50 gas line over or underneath the surface of such lands; to
51 which petition the owners of any or all as the plaintiff may
52 elect of such parcels as lie within the county or circuit
53 may be made parties defendant by names if the names are
54 known, and by the description of the unknown owners of the
55 land therein described if their names are unknown.

56 2. If the proceedings seek to affect the lands of
57 persons under conservatorship, the conservators must be made
58 parties defendant. If the present owner of any land to be
59 affected has less estate than a fee, the person having the
60 next vested estate in remainder may at the option of the
61 petitioners be made party defendant; but if such
62 remaindermen are not made parties, their interest shall not
63 be bound by the proceedings.

64 3. It shall not be necessary to make any persons party
65 defendants in respect to their ownership unless they are
66 either in actual possession of the premises to be affected

67 claiming title or having a title of the premises appearing
68 of record upon the proper records of the county.

69 4. Except as provided in subsection 5 of this section,
70 nothing in this chapter shall be construed to give a public
71 utility, as defined in section 386.020, or a rural electric
72 cooperative, as provided in chapter 394, the power to
73 condemn property which is currently used by another provider
74 of public utility service, including a municipality or a
75 special purpose district, when such property is used or
76 useful in providing utility services, if the public utility
77 or cooperative seeking to condemn such property, directly or
78 indirectly, will use or proposes to use the property for the
79 same purpose, or a purpose substantially similar to the
80 purpose for which the property is being used by the provider
81 of the public utility service.

82 5. A public utility or a rural electric cooperative
83 may only condemn the property of another provider of public
84 utility service, even if the property is used or useful in
85 providing utility services by such provider, if the
86 condemnation is necessary for the public purpose of
87 acquiring a nonexclusive easement or right-of-way across the
88 property of such provider and only if the acquisition will
89 not materially impair or interfere with the current use of
90 such property by the utility or cooperative and will not
91 prevent or materially impair such provider of public utility
92 service from any future expansion of its facilities on such
93 property.

94 6. If a public utility or rural electric cooperative
95 seeks to condemn the property of another provider of public
96 utility service, and the conditions in subsection 4 of this
97 section do not apply, this section does not limit the

98 condemnation powers otherwise possessed by such public
99 utility or rural electric cooperative.

100 7. Suits in inverse condemnation or involving
101 dangerous conditions of public property against a municipal
102 corporation established under Article VI, Section 30(a) of
103 the Missouri Constitution shall be brought only in the
104 county where such land or any part thereof lies.

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