

FIRST REGULAR SESSION

# SENATE BILL NO. 184

101ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR BEAN.

0955S.01I

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2 repealed and three new sections enacted in lieu thereof, to be  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;
- 15 (3) "Basic interexchange telecommunications service"  
16 includes, at a minimum, two-way switched voice service

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

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 3 of section 393.1420;**

110           (15) "Electrical corporation" includes every  
111 corporation, company, association, joint stock company or

association, partnership and person, their lessees, trustees or receivers appointed by any court whatsoever, other than a railroad, light rail or street railroad corporation generating electricity solely for railroad, light rail or street railroad purposes or for the use of its tenants and not for sale to others, owning, operating, controlling or managing any electric plant except where electricity is generated or distributed by the producer solely on or through private property for railroad, light rail or street railroad purposes or for its own use or the use of its tenants and not for sale to others. The term "electrical corporation" shall not include:

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

(b) Rural electric cooperatives operating under chapter 394;

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

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

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

(18) "Gas corporation" includes every corporation, company, association, joint stock company or association,

partnership and person, their lessees, trustees or receivers appointed by any court whatsoever, owning, operating, controlling or managing any gas plant operating for public use under privilege, license or franchise now or hereafter granted by the state or any political subdivision, county or municipality thereof;

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

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

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

except for customer premises equipment owned or provided by a telecommunications company and used for answering 911 or emergency calls;

(b) Answering services and paging services;

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

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

(e) Services provided by a private telecommunications system;

(f) Cable television service;

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

(h) Electronic publishing services;

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

(j) Interconnected voice over internet protocol service;

(55) "Telephone cooperative", every corporation defined as a telecommunications company in this section, in which at least ninety percent of those persons and corporations subscribing to receive local telecommunications service from the corporation own at least ninety percent of 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 affiliate", a person that is either  
7 majority-owned or otherwise controlled by an electrical  
8 corporation and that is either a broadband operator, a  
9 broadband services provider, or both;

10 (2) "Broadband infrastructure", any and all component  
11 parts of an electrical corporation's infrastructure that may  
12 be used to provide broadband services, whether now existing  
13 or that may be developed in the future, and including, but  
14 not limited to, wires, copper cables, fiber optic cables,  
15 conduits, ducts, poles, antennas, transmitters, receivers,  
16 amplifiers, switches, multiplexers, routers, servers, and  
17 all appurtenances thereto;

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

22 (4) "Broadband operator", an electrical corporation or  
23 broadband affiliate that engages in broadband operations;

24 (5) "Broadband services":

25 (a) The provision of access to dark fiber within fiber  
26 optic cables, whether directly to end-use customers, or to



27 third parties for the third party's subsequent provision of  
28 access to such dark fiber to end-use customers; or

29 (b) The provision to third parties who are not end-use  
30 customers, for the third party's subsequent provision to end-  
31 use customers, of connectivity, via lit fiber or other  
32 components of the broadband infrastructure, whether to a  
33 data or information transmission medium, or to a technology,  
34 and in either case for purposes of accessing the internet or  
35 providing other capabilities including, but not limited to,  
36 information sharing, information storage, information  
37 content, or protocol conversion;

38 (6) "Broadband services provider", an electrical  
39 corporation or a broadband affiliate that uses an electrical  
40 corporation's broadband infrastructure to provide broadband  
41 services;

42 (7) "Commission", the public service commission;

43 (8) "Electrical corporation", the same as defined in  
44 section 386.020.

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

52 (a) Own, construct, install, maintain, repair, and  
53 replace broadband infrastructure;

54 (b) Operate the electrical corporation's broadband  
55 infrastructure for or in connection with the electrical  
56 corporation's provision of electric service;

57           (c) Engage in broadband operations, or permit its  
58 broadband affiliates to engage in broadband operations,  
59 using the electrical corporation's broadband infrastructure;

60           (d) Provide broadband services or permit its broadband  
61 affiliates to provide broadband services, using the  
62 electrical corporation's broadband infrastructure; and

63           (e) Enter into contracts, leases, licenses, or other  
64 agreements, concerning broadband operations or broadband  
65 services, with its broadband affiliates, end-use customers  
66 or third parties, on any terms and conditions, including  
67 rates and charges, as the electrical corporation in its sole  
68 discretion shall determine and, notwithstanding the  
69 provisions of section 393.190 or any other law to the  
70 contrary, without securing any authorization, permission, or  
71 approval from the commission.

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

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

81           4. (1) As used in this subsection, the following  
82 terms shall mean:

83           (a) "Broadband operations revenue", revenue received by  
84 an electrical corporation, or its broadband affiliates, for  
85 the provision of broadband operations;

86           (b) "Broadband services revenue", revenue received by  
87 an electrical corporation, or its broadband affiliates, for  
88 the provision of broadband services.

89           (2) When determining the revenue requirement used to  
90 set the electrical corporation's base rates in the  
91 electrical corporation's general rate proceedings, the  
92 following shall be included:

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

96           (b) The electrical corporation's test year broadband  
97 services revenues, as updated, trued-up, or normalized if  
98 applicable;

99           (c) The electrical corporation's prudently-incurred  
100 test year operations and maintenance expenditures associated  
101 with generating the revenues in paragraphs (a) and (b) of  
102 this subdivision; and

103           (d) The electrical corporation's prudently-incurred  
104 investment in broadband infrastructure as of the date the  
105 electrical corporation's other rate base additions are  
106 accounted for.

107           (3) Any ordinance adopted under section 71.520 or  
108 section 229.100 shall also grant the electrical corporation  
109 the right to construct, install, maintain, repair, and  
110 replace broadband infrastructure; the right to engage in  
111 broadband operations via the electrical corporation's  
112 broadband infrastructure either directly or through its  
113 broadband affiliates; and the right to provide broadband  
114 services via the electrical corporation's broadband  
115 infrastructure, either directly or through its broadband  
116 affiliates, on and subject to the terms and conditions of  
117 such ordinance.

118           5. Notwithstanding any provision of chapters 386 or  
119 393 to the contrary, and consistent with the authority and  
120 discretion granted to electrical corporations in paragraph

121 (e) of subdivision (1) of subsection 3 of this section, the  
122 commission shall not have jurisdiction over the terms,  
123 conditions, charges, contracts, leases, licenses, or other  
124 agreements of an electrical corporation or of its broadband  
125 affiliate for the electrical corporation's or broadband  
126 affiliate's broadband operations or provision of broadband  
127 services.

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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