

# SENATE BILL NO. 805

102ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR BLACK.

4166S.01H

KRISTINA MARTIN, Secretary

## AN ACT

To repeal sections 393.170 and 523.010, RSMo, and to enact in lieu thereof three new sections relating to electric utilities.

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

Section A. Sections 393.170 and 523.010, RSMo, are  
2 repealed and three new sections enacted in lieu thereof, to be  
3 known as sections 393.170, 393.172, and 523.010, to read as  
4 follows:

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

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

18 has received the required consent of the proper municipal  
19 authorities.

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

30 **4. (1) The provisions of this subsection shall apply**  
31 **when the permission and approval sought from the commission**  
32 **under subsection 1 of this section is for the construction**  
33 **of electric transmission facilities approved by a regional**  
34 **transmission operator. To the greatest extent practical,**  
35 **such electric transmission facilities shall be designed,**  
36 **consistent with electric industry standards, to utilize a**  
37 **multi-circuit configuration, be sited with or along existing**  
38 **above-ground infrastructure, or replace or upgrade existing**  
39 **above-ground infrastructure, whether or not the existing**  
40 **electric transmission facility infrastructure utilized is**  
41 **owned by an electrical corporation that owns in-service**  
42 **electric transmission facilities in this state that are**  
43 **under the functional control of a regional transmission**  
44 **operator. Electric transmission facilities need not be**  
45 **designed as provided in the immediately preceding sentence**  
46 **if the commission determines in a proceeding pursuant to**  
47 **which permission and approval is sought under subsection 1**  
48 **of this section that such a design is inconsistent with**  
49 **electric industry standards, is inconsistent with the**

50 reliability basis given for the electric transmission  
51 facilities project, or is not in the best interest of the  
52 electrical corporation's customers or, to the extent the  
53 electrical corporation does not directly serve retail  
54 customers, the interests of the electric customers whose  
55 retail rates will reflect the majority of the costs of the  
56 electric transmission facilities to-be-constructed. In  
57 addition, to the extent such electric transmission  
58 facilities will be sited with or along or will replace or  
59 upgrade existing above-ground electrical infrastructure that  
60 is not owned by an entity seeking permission and approval  
61 pursuant to an application filed under subsection 1 of this  
62 section or by its affiliate, the entity or entities that  
63 will own the new electric transmission facilities subject to  
64 the application shall obtain from the underlying fee owners  
65 independent real estate rights necessary to accommodate the  
66 installation and operation thereof. Nothing in this  
67 subdivision shall relieve such entity or entities of the  
68 obligations contained in sections 523.039 or 523.256, to the  
69 extent those obligations would otherwise apply.

70 (2) In addition to the design requirements in  
71 subdivision (1) of this subsection, each electrical  
72 corporation seeking permission and approval under subsection  
73 1 of this section shall competitively bid the major  
74 construction components of each project for which permission  
75 and approval is sought and shall utilize competitive  
76 sourcing strategies for all related major materials.

77 (3) Only electrical corporations that own in-service  
78 electric transmission facilities in this state that are  
79 under the functional control of a regional transmission  
80 operator and to which the electric transmission facilities  
81 subject to the application will connect, either initially or

82 once construction of all electric transmission facilities  
83 approved by the regional transmission operator as of the  
84 time of the commission's approval of the application are  
85 completed, may file applications with the commission for  
86 permission and approval to construct the electric  
87 transmission facilities described in this subsection.  
88 Within ninety days following approval of the construction of  
89 electric transmission facilities by the applicable regional  
90 transmission operator, an electric corporation seeking  
91 permission and approval for electric transmission facilities  
92 under the provisions of this subsection may notify the  
93 commission that it will not construct any or some portion of  
94 the facilities approved. If such notice is given and  
95 indicates the notifying electrical corporation will not  
96 construct any of the facilities approved, the commission may  
97 grant permission and approval for such facilities'  
98 construction to any other electrical corporation. If such  
99 notice indicates that it will assign all or a portion of the  
100 facilities approved to another electrical corporation, the  
101 commission may grant permission and approval for the  
102 facilities that were assigned to the assignee electrical  
103 corporation and such electrical corporation's construction  
104 of the facilities will be subject to this subsection.

105 (4) This subsection shall not limit the right of any  
106 electrical corporation to seek permission and approval from  
107 the commission to construct, operate, and maintain electric  
108 transmission facilities in this state that will not  
109 initially connect to electric transmission facilities in  
110 this state that are not under the functional control of a  
111 regional transmission operator. This subsection shall also  
112 not limit the right of any electrical corporation, any  
113 municipal utility operating under chapter 91, any joint

114 electric utility commission operating under chapter 393, any  
115 rural electric cooperative organized or operating under  
116 chapter 394, any corporation organized on a nonprofit or a  
117 cooperative basis as described in subsection 1 of section  
118 394.200, or any electrical corporation operating under the  
119 not-for-profit cooperative business plan as described in  
120 subsection 2 of section 393.110 to construct, operate, and  
121 maintain electric transmission facilities in this state that  
122 are not under the functional control of a regional  
123 transmission operator.

124 (5) In considering applications under this subsection,  
125 the commission shall take into account the importance of  
126 construction of electric transmission facilities in the  
127 state needed to support Missouri's economy, the benefits of  
128 electric transmission facility construction to Missouri  
129 customers, and the importance of transmission facility  
130 construction in ensuring reliable electric service in the  
131 state in the twenty-first century and beyond.

132 (6) For the purposes of this subsection, the following  
133 terms shall mean:

134 (a) "Electric transmission facilities", a transmission  
135 line that is designed and constructed with the capability of  
136 being safely and reliably energized at one hundred kilovolts  
137 or more and associated transmission facilities, including  
138 substations;

139 (b) "Regional transmission operator", a regional  
140 transmission organization, independent system operator, or  
141 equivalent entity approved by the Federal Energy Regulatory  
142 Commission or its successor agency that exercises functional  
143 control over electric transmission facilities located within  
144 this state.

393.172. By March 31, 2025, the commission shall adopt  
2 rules applicable to electrical corporations that require the  
3 entity constructing an electric transmission line under  
4 subsection 1 of section 393.170 for which permission is  
5 sought from the commission on or after the effective date of  
6 this section to adhere to standards to be adopted by such  
7 rules relating to construction activities occurring  
8 partially or wholly on privately owned agricultural land.  
9 Such standards shall address, at a minimum, landowner  
10 communication expectations, expectations with respect to  
11 transmission structure design and placement, wet weather  
12 construction and remediation practices, agricultural  
13 mitigation and restoration practices, construction-related  
14 tree and brush clearing, expectations concerning the use and  
15 restoration of field entrances and temporary roads, and best  
16 practices with respect to erosion prevention.

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 or transmission of electric  
5 current for light, heat or power, including the  
6 construction, when that is the case, of necessary dams and  
7 appurtenant canals, flumes, tunnels and tailraces and  
8 including the erection, when that is the case, of necessary  
9 electric steam powerhouses, hydroelectric powerhouses and  
10 electric substations or any oil, pipeline or gas corporation  
11 engaged in the business of transporting or carrying oil,  
12 liquid fertilizer solutions, or gas by means of pipes or  
13 pipelines laid underneath the surface of the ground, or  
14 other corporation created under the laws of this state for  
15 public use, and such corporation and the owners cannot agree  
16 upon the proper compensation to be paid, or in the case the

17 owner is incapable of contracting, be unknown, or be a  
18 nonresident of the state, such corporation may apply to the  
19 circuit court of the county of this state where such land or  
20 any part thereof lies by petition setting forth the general  
21 directions in which it is desired to construct its road,  
22 railroad, street railway, telephone, or telegraph line or  
23 electric line, including, when that is the case, the  
24 construction and maintenance of necessary dams and  
25 appurtenant canals, tunnels, flumes and tailraces and, when  
26 that is the case, the appropriation of land submerged by the  
27 construction of such dam, and including the erection and  
28 maintenance, when that is the case, of necessary electric  
29 steam powerhouses, hydroelectric powerhouses and electric  
30 substations, or oil, pipeline, liquid fertilizer solution  
31 pipeline, or gas line over or underneath the surface of such  
32 lands, a description of the real estate, or other property,  
33 which the company seeks to acquire; the names of the owners  
34 thereof, if known; or if unknown, a pertinent description of  
35 the property whose owners are unknown and praying the  
36 appointment of three disinterested residents of the county,  
37 as commissioners, or a jury, to assess the damages which  
38 such owners may severally sustain in consequence of the  
39 establishment, erection and maintenance of such road,  
40 railroad, street railway, telephone, telegraph line, or  
41 electrical line including damages from the construction and  
42 maintenance of necessary dams and the condemnation of land  
43 submerged thereby, and the construction and maintenance of  
44 appurtenant canals, flumes, tunnels and tailraces and the  
45 erection and maintenance of necessary electric steam  
46 powerhouses, hydroelectric powerhouses and electric  
47 substations, or oil, pipeline, or gas line over or  
48 underneath the surface of such lands; to which petition the

49 owners of any or all as the plaintiff may elect of such  
50 parcels as lie within the county or circuit may be made  
51 parties defendant by names if the names are known, and by  
52 the description of the unknown owners of the land therein  
53 described if their names are unknown.

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

62 3. It shall not be necessary to make any persons party  
63 defendants in respect to their ownership unless they are  
64 either in actual possession of the premises to be affected  
65 claiming title or having a title of the premises appearing  
66 of record upon the proper records of the county.

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



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

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

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

103           8. For purposes of this chapter, the authority for an  
104 electrical corporation as defined in section 386.020, except  
105 for an electrical corporation operating under a cooperative  
106 business plan as described in section 393.110, to condemn  
107 property for purposes of constructing an electric plant  
108 subject to a certificate of public convenience and necessity  
109 under subsection 1 of section 393.170 shall not extend to  
110 the construction of a merchant transmission line with  
111 Federal Energy Regulatory Commission negotiated rate

112 authority unless such line has a substation or converter  
113 station located in Missouri which is capable of delivering  
114 an amount of its electrical capacity to electrical customers  
115 in this state that is greater than or equal to the  
116 proportionate number of miles of the line that passes  
117 through the state. The provisions of this subsection shall  
118 not apply to applications filed pursuant to section 393.170  
119 prior to August 28, 2022.

120 **9. For the purposes of this chapter, the authority of**  
121 **any corporation set forth in subsection 1 of this section to**  
122 **condemn property shall not extend to:**

123 (1) The construction or erection of any plant, tower,  
124 panel, or facility that utilizes, captures, or converts wind  
125 or air currents to generate or manufacture electricity; or

126 (2) The construction or erection of any plant, tower,  
127 panel, or facility that utilizes, captures, or converts the  
128 light or heat generated by the sun to generate or  
129 manufacture electricity.

130 **10. Subject to subsection 8 of this section, but**  
131 **notwithstanding subsection 9 of this section, the authority**  
132 **of any corporation set forth in subsection 1 of this section**  
133 **to condemn property shall extend to acquisition of rights**  
134 **needed to construct, operate, and maintain collection lines,**  
135 **distribution lines, transmission lines, communications**  
136 **lines, substations, switchyards, and other facilities needed**  
137 **to collect and deliver energy generated or manufactured by**  
138 **the facilities described in subsection 9 of this section to**  
139 **the distribution or transmission grid.**

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