

SECOND REGULAR SESSION

SENATE BILL NO. 923

89TH GENERAL ASSEMBLY

INTRODUCED BY SENATORS SCOTT AND MATHEWSON.

Read 1st time February 17, 1998, and 1,000 copies ordered printed.

TERRY L. SPIELER, Secretary.

S3878.011

AN ACT

To repeal sections 91.025, 393.140, 393.190, 393.260, 393.270, 394.020 and 394.160, RSMo 1994, and sections 386.020 and 386.250, RSMo Supp. 1997, relating to regulation of electric utilities, and to enact in lieu thereof forty-four new sections relating to the same subject.

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

Section A. Sections 91.025, 393.140, 393.190, 393.260, 393.270, 394.020 and 394.160, RSMo 1994, and sections 386.020 and 386.250, RSMo Supp. 1997, are repealed and forty-four new sections enacted in lieu thereof, to be known as sections 91.025, 91.035, 386.020, 386.250, 393.140, 393.190, 393.255, 393.260, 393.265, 393.270, 393.296, 394.020, 394.160, 394.235, 395.010, 395.020, 395.030, 395.040, 395.050, 395.060, 395.070, 395.080, 395.090, 395.100, 395.110, 395.120, 395.130, 395.140, 395.150, 395.160, 395.170, 395.180, 395.190, 395.200, 395.210, 395.300, 395.310, 395.320, 395.330, 395.340, 395.350, 395.360, 395.370 and 395.380, to read as follows:

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

(1) **"Electric generation service", shall be defined for the purposes of this chapter as is provided in subdivision (3) of section 395.030;**

(2) **"Electric power exchange", the independent, nonprofit membership corporation formed in accordance with the provisions in chapter 395;**

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

[(2)] (4) "Permanent service", electrical service provided through facilities which have

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

been permanently installed on a structure and which are designed to provide electric service for the structure's anticipated needs for the indefinite future, as contrasted with facilities installed temporarily to provide electrical service during construction. Service provided temporarily shall be at the risk of the electrical supplier and shall not be determinative of the rights of the provider or recipient of permanent service;

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

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

3. Exclusively for the purpose of section 393.255, RSMo, any municipally owned or operated electric power system existing under the provisions of this chapter that

owns, leases, operates or controls any electric transmission facilities subject to the jurisdiction of the Federal Energy Regulatory Commission shall be considered an electrical corporation as defined in section 386.010, RSMo, and thereby required in accordance with section 393.255, RSMo, to submit for approval to the Federal Energy Regulatory Commission an application for establishing or joining an independent system operator as provided therein. The jurisdiction of the public service commission conferred within section 393.255, RSMo, shall be extended only to the extent provided in that section, and nothing herein contained shall be construed as otherwise conferring upon such commission jurisdiction over the service, rates, financing, accounting or management of any such municipally owned or operated electric power system.

4. Application, notices, hearings, findings and orders, and all other proceedings before the commission, in pursuance of the powers and duties herein conferred upon such commission, and review thereof, shall be the same as now or hereafter provided by law for other similar proceedings before the commission and review thereof.

5. The commission may retain jurisdiction of any such cause for the purpose of making such supplemental orders in such cause as may be necessary in furtherance of the purposes in this section, or for the purpose of modifying or amending the terms of, or revoking any permit granted under the provisions of this section for failure to comply with such rules, regulations, findings and orders made by the commission under the authority of this section.

91.035. 1. A municipally owned or operated electric power system shall not become a member of the electric power exchange unless the governing body or administrative board of the municipally owned or operated electric power system or the voters receiving electric service from the municipally owned or operated electric power system elect as provided in subsection 2 of this section for the municipally owned or operated electric power system to become a member of the electric power exchange. If the governing body, administrative board or voters elect to require the municipally owned or operated electric power system to become a member of the electric power exchange, then the municipally owned or operated electric power system shall be, upon becoming a member of the electric power exchange, subject to all applicable provisions of chapter 395, in the same manner as any other member of the electric power exchange.

2. The governing body of a municipally owned or operated electric power system may submit, by ordinance, to the qualified voters receiving electric service from the municipally owned or operated electric power system a proposition for the municipally owned or operated electric power system to become a member of the Electric Power Exchange. If a majority of the voters voting thereon vote in favor of the proposition,

the municipally owned or operated electric power system shall become a member of the electric power exchange not later than one year after the final canvass of the election results.

3. Upon receiving a petition filed in accordance with subsection 5 of this section, the governing body of a municipally owned or operated electric power system shall submit to the qualified voters receiving electric service from the municipally owned or operated electric power system a proposition for the municipally owned or operated electric power system to become a member of the electric power exchange. If a majority of the voters voting thereon vote in favor of the proposition, the municipally owned or operated electric power system shall become a member of the electric power exchange not later than one year after the final canvass of the election results.

4. The governing board of a municipally owned or operated electric power system may elect, by ordinance, to become a member of the electric power exchange, subject to a protest petition filed in accordance with subsection 5 of this section within thirty days after the adoption of the ordinance. If such petition is so filed, there shall be submitted to the qualified voters receiving electric service from a municipally owned or operated electric power system a proposition for the municipally owned or operated electric power system to become a member of the electric power exchange. If a valid protest petition is not submitted or if, upon submission of a valid protest petition and an election, a majority of the voters voting thereon vote in favor of the proposition, the municipally owned or operated electric power system shall become a member of the electric power exchange not later than one year after the adoption of the ordinance or the final canvass of the election results.

5. (1) A petition provided for by this section shall be filed with the county election authority and shall be signed by at least ten percent of the qualified voters receiving electric service from the municipally owned or operated electric power system who voted in the most recent gubernatorial election.

(2) When the petition requests a municipally owned or operated electric power system to become a member of the electric power exchange as provided in subsection 1 of this section, the following shall appear on the petition:

"We request an election to determine whether the municipally owned or operated electric power system of the city of (insert name of city) shall be required to become a member of the Electric Power Exchange."

6. When a proposition is submitted pursuant to this section to require a municipally owned or operated electric power system to become a member of the electric power exchange as provided in subsection 1 of this section, the city election authority shall cause the following proposition to be placed on the ballot in the area served with electricity by the municipally owned or operated electric power system at

the next general election or at a special election called for the purpose of voting on the proposition:

"Shall the municipally owned or operated electric power system of the city of (insert name of city) be required to become a member of the Electric Power Exchange?"

G YES

G NO

7. An election provided for by this section shall be conducted, and the votes counted and canvassed, in the manner provided by law for question submitted elections of the county.

8. The governing body or administrative board of a municipality is authorized to spend public moneys of the municipality to inform voters in an unbiased manner about the probable impacts of the municipally owned or operated electric power system becoming a member of the electric power exchange.

9. If a municipally owned or operated electric power system has elected to become a member of the electric power exchange as provided by subsection 1 of this section:

(1) The municipally owned or operated electric power system shall continue to provide all transmission and distribution services required to serve all of its retail electric customers with electric generation services purchased from the electric power exchange; and

(2) The municipally owned or operated electric power system shall not subsequently elect to discontinue its membership within the electric power exchange until the electric power exchange is dissolved or until the municipally owned or operated electric power system is otherwise authorized to discontinue its membership under the provisions specified in chapter 395.

10. If a municipally owned or operated electric power system does not elect to become a member of the electric power exchange as provided in subsection 1 of this section, the municipally owned or operated electric power system or any entity owned, operated, controlled or under common control with the municipally owned or operated electric power system shall not sell, trade or otherwise dispose of electric generation services to the electric power exchange or to any retail electric customers in this state receiving service from another provider unless such electric generation services are provided to such retail electric customers in accordance with the provisions specified in subdivision (2) of section 91.025.

11. At no time shall a municipally owned or operated electric power system make an election under provisions of this section if such election places at risk:

(1) Any status held by the municipally owned or operated electric power system which provides exemption from state or federal tax statutes; or

(2) Any debt, credit instrument or other contractual financial obligation held by, or on behalf of the municipally owned or operated electric power system which was entered into under an exemption from state or federal tax statutes.

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

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

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

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

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

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

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

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

(d) Access to basic local operator services;

(e) Access to basic local directory assistance;

(f) Standard intercept service;

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

(h) One standard white pages directory listing. Basic local telecommunications service does not include optional toll free calling outside a local calling scope but within a community of interest, available for an additional monthly fee or the offering or provision of basic local telecommunications service at private shared-tenant service locations;

(5) "Cable television service", the one-way transmission to subscribers of video

programming or other programming service and the subscriber interaction, if any, which is required for the selection of such video programming or other programming service;

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

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

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

(9) "Competitive telecommunications company", a telecommunications company which has been classified as such by the commission pursuant to section 392.361, RSMo;

(10) "Competitive telecommunications service", a telecommunications service which has been classified as such by the commission pursuant to section 392.361, RSMo, or which has become a competitive telecommunications service pursuant to section 392.370, RSMo;

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

(12) "Customer-owned pay telephone", a privately owned telecommunications device that is not owned, leased or otherwise controlled by a local exchange telecommunications company and which provides telecommunications services for a use fee to the general public;

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

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

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

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

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

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

(14) "Electric plant" includes all real estate, fixtures and personal property operated, controlled, owned, used or to be used for or in connection with or to facilitate the [generation,] transmission, distribution, sale or furnishing of electricity for light, heat or power; and any conduits, ducts or other devices, materials, apparatus or property for containing, holding or carrying conductors used or to be used for the transmission of electricity for light, heat or power, **but shall not include, after the electric power exchange in this state has become fully operational thereby making the generation of electricity in this state competitive, any real estate, fixtures and personal property operated, controlled, owned, used or to be used for or in connection with generating electricity;**

(15) **"Electric power exchange", the independent, nonprofit membership corporation formed in accordance with the provisions in chapter 395;**

(16) "Electrical corporation" includes every 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;

[(16)] (17) "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)] (18) "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)] (19) "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)] (20) "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)] (21) "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, RSMo, shall be a heating company or subject to regulation by the commission;

[(21)] (22) "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, exceeds the rate for basic local telecommunications service found reasonable by the commission;

[(22)] **(23)** "Incumbent local exchange telecommunications company", a local exchange telecommunications company authorized to provide basic local telecommunications service in a specific geographic area as of December 31, 1995, or a successor in interest to such a company;

[(23)] **(24)** "Interexchange telecommunications company", any company engaged in the provision of interexchange telecommunications service;

[(24)] **(25)** "Interexchange telecommunications service", telecommunications service between points in two or more exchanges;

[(25)] **(26)** "InterLATA", interexchange telecommunications service between points in different local access and transportation areas;

[(26)] **(27)** "IntraLATA", interexchange telecommunications service between points within the same local access and transportation area;

[(27)] **(28)** "Light rail" includes every rail transportation system in which one or more rail vehicles are propelled electrically by overhead catenary wire upon tracks located substantially within an urban area and are operated exclusively in the transportation of passengers and their baggage, and including all bridges, tunnels, equipment, switches, spurs, tracks, stations, used in connection with the operation of light rail;

[(28)] **(29)** "Line" includes route;

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

[(30)] **(31)** "Local exchange telecommunications company", any company engaged in the provision of local exchange telecommunications service. A local exchange telecommunications company shall be considered a "large local exchange telecommunications company" if it has at least one hundred thousand access lines in Missouri and a "small local exchange telecommunications company" if it has less than one hundred thousand access lines in Missouri;

[(31)] **(32)** "Local exchange telecommunications service", telecommunications service between points within an exchange;

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

[(33)] **(34)** "Municipality" includes a city, village or town;

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

[(35)] **(36)** "Noncompetitive telecommunications company", a telecommunications company other than a competitive telecommunications company or a transitionally competitive telecommunications company;

[(36)] **(37)** "Noncompetitive telecommunications service", a telecommunications service other than a competitive or transitionally competitive telecommunications service;

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

[(38)] **(39)** "Operator services contract", any agreement between a traffic aggregator and a certificated interexchange telecommunications company to provide operator services at a traffic aggregator location;

[(39)] **(40)** "Person" includes an individual, and a firm or copartnership;

[(40)] **(41)** "Private shared tenant services" includes the provision of telecommunications and information management services and equipment within a user group located in discrete private premises as authorized by the commission by a commercial-shared services provider or by a user association, through privately owned customer premises equipment and associated data processing and information management services and includes the provision of connections to the facilities of local exchange telecommunications companies and to interexchange telecommunications companies;

[(41)] **(42)** "Private telecommunications system", a telecommunications system controlled by a person or corporation for the sole and exclusive use of such person, corporation or legal or corporate affiliate thereof;

[(42)] **(43)** "Public utility" includes every pipeline corporation, gas corporation, electrical corporation, telecommunications company, water corporation, heat or refrigerating corporation, and sewer corporation, as these terms are defined in this section, and each thereof is hereby declared to be a public utility and to be subject to the jurisdiction, control and regulation of the commission and to the provisions of this chapter;

[(43)] **(44)** "Railroad" includes every railroad and railway, other than street railroad or light rail, by whatsoever power operated for public use in the conveyance of persons or property for compensation, with all bridges, ferries, tunnels, equipment, switches, spurs, tracks, stations,

real estate and terminal facilities of every kind used, operated, controlled or owned by or in connection with any such railroad;

[(44)] **(45)** "Railroad 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, holding, operating, controlling or managing any railroad or railway as defined in this section, or any cars or other equipment used thereon or in connection therewith;

[(45)] **(46)** "Rate", every individual or joint rate, fare, toll, charge, reconsigning charge, switching charge, rental or other compensation of any corporation, person or public utility, or any two or more such individual or joint rates, fares, tolls, charges, reconsigning charges, switching charges, rentals or other compensations of any corporation, person or public utility or any schedule or tariff thereof;

[(46)] **(47)** "Resale of telecommunications service", the offering or providing of telecommunications service primarily through the use of services or facilities owned or provided by a separate telecommunications company, but does not include the offering or providing of private shared tenant services;

[(47)] **(48)** "Service" includes not only the use and accommodations afforded consumers or patrons, but also any product or commodity furnished by any corporation, person or public utility and the plant, equipment, apparatus, appliances, property and facilities employed by any corporation, person or public utility in performing any service or in furnishing any product or commodity and devoted to the public purposes of such corporation, person or public utility, and to the use and accommodation of consumers or patrons;

[(48)] **(49)** "Sewer corporation" includes every corporation, company, association, joint stock company or association, partnership or person, their lessees, trustees or receivers appointed by any court, owning, operating, controlling or managing any sewer system, plant or property, for the collection, carriage, treatment, or disposal of sewage anywhere within the state for gain, except that the term shall not include sewer systems with fewer than twenty-five outlets;

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

(51) "Stranded cost":

(a) The amount by which the costs of all generation assets exceed the amount recoverable for all such assets once the sale of electric generation services has become competitive;

(b) The amount by which the value of all generation contracts and other generation-related legal obligations exceeds the amount recoverable for all such

contracts and legal obligations once the sale of electric generation services has become competitive;

(c) Nuclear decommissioning costs; and

(d) Regulatory assets;

[(50)] **(52)** "Street railroad" includes every railroad by whatsoever type of power operated, and all extensions and branches thereof and supplementary facilities thereto by whatsoever type of vehicle operated, for public use in the conveyance of persons or property for compensation, mainly providing local transportation service upon the streets, highways and public places in a municipality, or in and adjacent to a municipality, and including all cars, buses and other rolling stock, equipment, switches, spurs, tracks, poles, wires, conduits, cables, subways, tunnels, stations, terminals and real estate of every kind used, operated or owned in connection therewith but this term shall not include light rail as defined in this section; and the term "street railroad" when used in this chapter, shall also include all motor bus and trolley bus lines and routes and similar local transportation facilities, and the rolling stock and other equipment thereof and the appurtenances thereto, when operated as a part of a street railroad or trolley bus local transportation system, or in conjunction therewith or supplementary thereto, but such term shall not include a railroad constituting or used as part of a trunk line railroad system and any street railroad as defined above which shall be converted wholly to motor bus operation shall nevertheless continue to be included within the term "street railroad" as used herein;

[(51)] **(53)** "Telecommunications company" includes telephone corporations as that term is used in the statutes of this state and 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 facilities used to provide telecommunications service for hire, sale or resale within this state;

[(52)] **(54)** "Telecommunications facilities" includes lines, conduits, ducts, poles, wires, cables, crossarms, receivers, transmitters, instruments, machines, appliances and all devices, real estate, easements, apparatus, property and routes used, operated, controlled or owned by any telecommunications company to facilitate the provision of telecommunications service;

[(53)] **(55)** "Telecommunications service", the transmission of information by wire, radio, optical cable, electronic impulses, or other similar means. As used in this definition, "information" means knowledge or intelligence represented by any form of writing, signs, signals, pictures, sounds, or any other symbols. Telecommunications service does not include:

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

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

[(54)] (56) "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 in which no subscriber owns more than two shares of the corporation's outstanding and issued capital stock;

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

[(56)] (58) "Transitionally competitive telecommunications company", an interexchange telecommunications company which provides any noncompetitive or transitionally competitive telecommunications service, except for an inter-exchange telecommunications company which provides only noncompetitive telecommunications service;

[(57)] (59) "Transitionally competitive telecommunications service", a telecommunications service offered by a noncompetitive or transitionally competitive telecommunications company and classified as transitionally competitive by the commission pursuant to section 392.361 or 392.370, RSMo;

[(58)] (60) "Water 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 plant or property, dam or water supply, canal, or power station, distributing or selling for distribution, or

selling or supplying for gain any water;

[(59)] **(61)** "Water system" includes all reservoirs, tunnels, shafts, dams, dikes, headgates, pipes, flumes, canals, structures and appliances, and all other real estate, fixtures and personal property, owned, operated, controlled or managed in connection with or to facilitate the diversion, development, storage, supply, distribution, sale, furnishing or carriage of water for municipal, domestic or other beneficial use.

386.250. The jurisdiction, supervision, powers and duties of the public service commission herein created and established shall extend under this chapter:

(1) To the manufacture[,] **of gas, natural and artificial, and to the** sale or distribution of gas[, natural and artificial,] and electricity for light, heat and power, within the state, and to persons or corporations owning, leasing, operating or controlling the same; and to gas and electric plants, and to persons or corporations owning, leasing, operating or controlling the same; **but such jurisdiction, supervision, powers and duties shall not extend under this chapter to electric generating plants and all appurtenant facilities thereto, and to the operations of such generating plants by persons or corporations owning, leasing, operating or controlling the same once the electric power exchange in this state has become fully operational thereby making generation of electricity in this state competitive;**

(2) To all telecommunications facilities, telecommunications services and to all telecommunications companies so far as such telecommunications facilities are operated or utilized by a telecommunications company to offer or provide telecommunications service between one point and another within this state or so far as such telecommunications services are offered or provided by a telecommunications company between one point and another within this state, except that nothing contained in this section shall be construed as conferring jurisdiction upon the commission over the rates charged by a telephone cooperative for providing telecommunications service within an exchange or within a local calling scope as determined by the commission, except for exchange access service;

(3) To all water corporations, and to the land, property, dams, water supplies, or power stations thereof and the operation of same within this state, except that nothing contained in this section shall be construed as conferring jurisdiction upon the commission over the service or rates of any municipally owned water plant or system in any city of this state except where such service or rates are for water to be furnished or used beyond the corporate limits of such municipality;

(4) To all sewer systems and their operations within this state and to persons or corporations owning, leasing, operating or controlling the same;

(5) To all public utility corporations and persons whatsoever subject to the provisions of this chapter as herein defined, except that the public service commission may, upon application of any interested person, decline jurisdiction and supervision over the sale and distribution of

electricity and the owning, operating, and controlling of related plant if such sale and distribution is by a person authorized to provide such services in an adjoining state with fewer than twenty residential customers in Missouri, all of whom are located within two miles of the borders of the state of Missouri and if such customers are unable to receive utility services from an investor-owner utility or rural electric cooperative due to a natural barrier. If the public service commission shall decline such jurisdiction and supervision, the Missouri customers of such out-of-state utility shall receive services under the same terms and conditions as the utility provides service to its customers in the nearest adjoining state;

(6) To the adoption of rules as are supported by evidence as to reasonableness and which prescribe the conditions of rendering public utility service, disconnecting or refusing to reconnect public utility service and billing for public utility service. All such proposed rules shall be filed with the secretary of state and published in the Missouri Register as provided in chapter 536, RSMo, and a hearing shall be held at which affected parties may present evidence as to the reasonableness of any proposed rule; and

(7) To such other and further extent, and to all such other and additional matters and things, and in such further respects as may herein appear, either expressly or impliedly.

393.140. The commission shall:

(1) Have general supervision of all gas corporations, electrical corporations, water corporations and sewer corporations having authority under any special or general law or under any charter or franchise to lay down, erect or maintain wires, pipes, conduits, ducts or other fixtures in, over or under the streets, highways and public places of any municipality, for the purpose of furnishing or distributing water or gas or of furnishing or transmitting electricity for light, heat or power, or maintaining underground conduits or ducts for electrical conductors, or for the purpose of collecting, carrying, treating, or disposing of sewage, and all gas plants, electric plants, water systems and sewer systems owned, leased or operated by any gas corporation, electrical corporation, water corporation, or sewer corporation.

(2) Investigate and ascertain, from time to time, the quality of gas or water supplied and sewer service furnished by persons and corporations, examine or investigate the methods employed by such persons and corporations in manufacturing[,] **gas and in** distributing and supplying gas or electricity for light, heat or power and in transmitting the same, and in supplying and distributing water for any purpose whatsoever, and in furnishing a sewer system, and have power to order such reasonable improvements as will best promote the public interest, preserve the public health and protect those using such gas, electricity, water, or sewer system, and those employed in the [manufacture and] distribution thereof, and have power to order reasonable improvements and extensions of the works, wires, poles, pipes, lines, conduits, ducts and other reasonable devices, apparatus and property of gas corporations, electrical corporations, water corporations, and sewer corporations.

(3) Not have power or authority to order or curtail the construction, expansion, demolition or shut down of any electric generation plant once the electric power exchange in this state has become fully operational thereby making generation of electricity in this state competitive.

(4) Have power, by order, to fix from time to time standards for the measurement of the purity or illuminating power of gas to be manufactured, distributed or sold by persons or corporations for lighting, heating or power purposes, to prescribe from time to time the efficiency of the electric supply system, of the current supplied and of the lamps furnished by the persons or corporations [generating and] selling electric current, and to fix from time to time standards for the measurement of the purity or pressure of water to be distributed or sold by persons or corporations for any purpose whatsoever, and to fix from time to time the standards for designing, constructing, operating and maintaining sewer systems of sewer corporations, including sewers, sewage pumping stations, sewage treatment works, primary treatment facilities, sludge digestion and disposal facilities, secondary treatment facilities, disinfection facilities, and any and all facilities related thereto; provided, however, that such standards shall be supplemental to and in no way set standards lesser than the minimum standards adopted by the state water pollution board, and by order to require gas so manufactured, distributed or sold to equal the standards so fixed by it, and to prescribe from time to time the reasonable minimum and maximum pressure at which gas shall be delivered by said persons or corporations. For the purpose of determining whether the gas manufactured, distributed or sold by such persons or corporations for lighting, heating or power purposes conforms to the standards of illuminating power, purity and pressure, and for the purpose of determining whether the efficiency of the electric supply system, of the current supplied and of the lamps furnished, and for the purpose of determining whether the water furnished or sold conforms to the standard of purity and pressure, and for the purpose of determining whether the sewer system conforms to the standards for designing, constructing, operating and maintaining sewer systems, and conforms to the orders issued by the commission, the commission shall have power, of its own motion, to examine and investigate the plants and methods employed in manufacturing, delivering and supplying gas[, electricity] or water, **and the methods employed in the delivery and supply of electricity**, and the collecting, carrying, treating and disposing of sewage, and shall have access, through its members or persons employed and authorized by it, to make such examinations and investigations to all parts of the manufacturing plants owned, used or operated for the manufacture, transmission or distribution of gas [or electricity] by any such person or corporation, and to all parts of the systems owned, used or operated for the supplying and distribution of water **or electricity** and the collecting, carrying, treating and disposing of sewage by any such person or corporation. Any employee or agent of the commission who divulges any fact or information which may come to his knowledge during the course of any such inspection or examination, except insofar as he may be directed by

the commission, or by a court or judge thereof, or authorized by law, shall be guilty of a misdemeanor.

[(4)] **(5)** Have power, in its discretion, to prescribe uniform methods of keeping accounts, records and books, to be observed by gas corporations, electrical corporations, water corporations and sewer corporations engaged in the manufacture, sale or distribution of gas [and electricity] for light, heat or power, **or in the distribution and sale of electricity for light, heat or power**, or in the distribution and sale of water for any purpose whatsoever, or in the collection, carriage, treatment and disposal of sewage for municipal, domestic or other necessary beneficial purpose. It may also, in its discretion, prescribe, by order, forms of accounts, records and memoranda to be kept by such persons and corporations. Notice of alterations by the commission in the required method or form of keeping a system of accounts shall be given to such persons or corporations by the commission at least six months before the same shall take effect. Any other and additional forms of accounts, records and memoranda kept by such corporation shall be subject to examination by the commission.

[(5)] **(6)** Examine all persons and corporations under its supervision and keep informed as to the methods, practices, regulations and property employed by them in the transaction of their business. Whenever the commission shall be of the opinion, after a hearing had upon its own motion or upon complaint, that the rates or charges or the acts or regulations of any such persons or corporations are unjust, unreasonable, unjustly discriminatory or unduly preferential or in any wise in violation of any provision of law, the commission shall determine and prescribe the just and reasonable rates and charges thereafter to be in force for the service to be furnished, notwithstanding that a higher rate or charge has heretofore been authorized by statute, and the just and reasonable acts and regulations to be done and observed; and whenever the commission shall be of the opinion, after a hearing had upon its own motion or upon complaints, that the property, equipment or appliances of any such person or corporation are unsafe, insufficient or inadequate, the commission shall determine and prescribe the safe, efficient and adequate property, equipment and appliances thereafter to be used, maintained and operated for the security and accommodation of the public and in compliance with the provisions of law and of their franchises and charters.

(7) Have power to order all electrical corporations under its supervision and control to show with sufficient detail the cost of the major components of the electric bill of each end user class, including but not limited to, the cost for generation, energy, and capacity, transmission services, distribution services, customer services, nuclear decommissioning and taxes by a date not later than January 1, 2000. To comply with the provisions of this subdivision, each electrical corporation shall file tariffs to establish a rate for each item required by the commission to be listed on the end user's bill by a date not later than September 1, 1999.

(8) Have power after July 1, 2002, to order all electrical corporations under its supervision and control to become a member of the electric power exchange as provided in chapter 395, RSMo, by a date not later than December 31, 2003.

[(6)] **(9)** Require every person and corporation under its supervision and it shall be the duty of every person and corporation to file with the commission an annual report, verified by the oath of the president, treasurer, general manager or receiver, if any, thereof. The verification shall be made by said official holding office at the time of the filing of said report, and if not made upon the knowledge of the person verifying the same, shall set forth the sources of his information and the grounds of his belief as to any matters not stated to be verified upon his knowledge. The report shall show in detail the amount of its authorized capital stock and the amount thereof issued and outstanding; the amount of its authorized bonded indebtedness and the amount of its bonds and other forms of evidence of indebtedness issued and outstanding; its receipts and expenditures during the preceding year; the amount paid as dividends upon its stock and as interest upon its bonds; the names of its officers and the aggregate amount paid as salaries to them and the amount paid as wages to its employees; the location of its plant or plants and system, with a full description of its property and franchises, stating in detail how each franchise stated to be owned was acquired; and such other facts pertaining to the operation and maintenance of the plant and system, and the affairs of such person or corporation as may be required by the commission. Such reports shall be in the form, cover the period and be filed at the time prescribed by the commission. The commission may, from time to time, make changes and additions in such forms. When any such report is defective or believed to be erroneous, the commission shall notify the person or corporation making such report to amend the same within a time prescribed by the commission. Any such person or corporation which shall neglect to make any such report or which shall fail to correct any such report within the time prescribed by the commission shall be liable to a penalty of one hundred dollars and an additional penalty of one hundred dollars for each day after the prescribed time for which it shall neglect to file or correct the same, to be sued for in the name of the state of Missouri. The amount recovered in any such action shall be paid to the public school fund of the state. The commission may extend the time prescribed for cause shown.

[(7)] **(10)** Have power, either through its members or inspectors or employees duly authorized by it, to enter in or upon and to inspect the property, buildings, plants, factories, powerhouses, ducts, conduits and offices of any such corporations or persons, **except those properties, buildings, plants, factories, powerhouses, ducts, conduits and offices used for the purpose of generating electricity once the electric power exchange in this state is fully operational thereby making generation of electricity in this state competitive.**

[(8)] **(11)** Have power to examine the accounts, books, contracts, records, documents and papers of any such corporation or person, and have power, after hearing, to prescribe by order the accounts in which particular outlays and receipts shall be entered, charged or credited.

Unofficial

[(9)] (12) Have power to compel, by subpoena duces tecum, the production of any accounts, books, contracts, records, documents, memoranda and papers. In lieu of requiring production of originals by subpoena duces tecum the commission or any commissioner may require sworn copies of any such books, records, contracts, documents and papers, or parts thereof, to be filed with it. The commission may require of all such corporations or persons specific answers to questions upon which the commission may need information, and may also require such corporations or persons to file periodic reports in the form, covering the period and filed at the time prescribed by the commission. If such corporation or person shall fail to make specific answer to any question or shall fail to make a periodic report when required by the commission as herein provided within the time and in the form prescribed by the commission for the making and filing of any such report or answer, such corporation or person shall forfeit to the state the sum of one hundred dollars for each and every day it shall continue to be in default with respect to such report or answer. Such forfeiture shall be recovered in an action brought by the commission in the name of the state of Missouri. The amount recovered in any such action shall be paid to the public school fund of the state.

Bill

[(10)] (13) Have power in all parts of the state, either as a commission or through its members, to subpoena witnesses, take testimony and administer oaths to witnesses in any proceeding or examination instituted before it, or conducted by it, in reference to any matter under sections 393.110 to 393.285.

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[(11)] (14) Have power to require every gas corporation, electrical corporation, water corporation, and sewer corporation to file with the commission and to print and keep open to public inspection schedules showing all rates and charges made, established or enforced or to be charged or enforced, all forms of contract or agreement and all rules and regulations relating to rates, charges or service used or to be used, and all general privileges and facilities granted or allowed by such gas corporation, electrical corporation, water corporation, or sewer corporation; but this subdivision shall not apply to state, municipal or federal contracts **nor to any rates, fees or charges imposed by any supplier of electric generation services as defined in section 395.010, RSMo, to the electric power exchange**. Unless the commission otherwise orders, no change shall be made in any rate or charge, or in any form of contract or agreement, or any rule or regulation relating to any rate, charge or service, or in any general privilege or facility, which shall have been filed and published by a gas corporation, electrical corporation, water corporation, or sewer corporation in compliance with an order or decision of the commission, except after thirty days' notice to the commission and publication for thirty days as required by order of the commission, which shall plainly state the changes proposed to be made in the schedule then in force and the time when the change will go into effect. The commission for good cause shown may allow changes without requiring the thirty days' notice under such conditions as it may prescribe. No corporation shall charge, demand, collect or receive a greater or less or different

compensation for any service rendered or to be rendered than the rates and charges applicable to such services as specified in its schedule filed and in effect at the time; nor shall any corporation refund or remit in any manner or by any device any portion of the rates or charges so specified, nor to extend to any person or corporation any form of contract or agreement, or any rule or regulation, or any privilege or facility, except such as are regularly and uniformly extended to all persons and corporations under like circumstances. The commission shall have power to prescribe the form of every such schedule, and from time to time prescribe by order such changes in the form thereof as may be deemed wise. The commission shall also have power to establish such rules and regulations, to carry into effect the provisions of this subdivision, as it may deem necessary, and to modify and amend such rules or regulations from time to time.

[(12)] (15) In case any electrical corporation, gas corporation, water corporation or sewer corporation engaged in carrying on any other business than owning, operating or managing a gas plant, electric plant, water system or sewer system which other business is not otherwise subject to the jurisdiction of the commission, and is so conducted that its operations are to be substantially kept separate and apart from the owning, operating, managing or controlling of such gas plant, electric plant, water system or sewer system, said corporation in respect to such other business shall not be subject to any of the provisions of this chapter and shall not be required to procure the consent or authorization of the commission to any act in such other business or to make any report in respect thereof. But this subdivision shall not restrict or limit the powers of the commission in respect to the owning, operating, managing or controlling by such corporation of such gas plant, electric plant, water system or sewer system, and said powers shall include also the right to inquire as to, and prescribe the apportionment of, capitalization, earnings, debts and expenses fairly and justly to be awarded to or borne by the ownership, operation, management or control of such gas plant, electric plant, water system or sewer system as distinguished from such other business. In any such case if the owning, operating, managing or controlling of such gas plant, electric plant, water system or sewer system by any such corporation is wholly subsidiary and incidental to the other business carried on by it and is inconsiderable in amount and not general in its character, the commission may by general rules exempt such corporation from making full reports and from the keeping of accounts as to such subsidiary and incidental business.

393.190. 1. No gas corporation, electrical corporation, water corporation or sewer corporation shall hereafter sell, assign, lease, transfer, mortgage or otherwise dispose of or encumber the whole or any part of its franchise, works or system, necessary or useful in the performance of its duties to the public, nor by any means, direct or indirect, merge or consolidate such works or system, or franchises, or any part thereof, with any other corporation, person or public utility, without having first secured from the commission an order authorizing it so to do. Every such sale, assignment, lease, transfer, mortgage, disposition, encumbrance, merger or

consolidation made other than in accordance with the order of the commission authorizing same shall be void. **Notwithstanding the provisions in this section, once the electric power exchange in this state is fully operational thereby making the sale of electric generation services in this state competitive, no electrical corporation shall be required to secure from the commission an order authorizing it to sell, assign, lease, transfer, mortgage or otherwise dispose of or encumber the whole or any part of the properties, buildings, plants, factories, powerhouses, ducts, conduits and offices used by an electrical corporation for the purpose of generating electricity.** The permission and approval of the commission to the exercise of a franchise or permit under this chapter, or the sale, assignment, lease, transfer, mortgage or other disposition or encumbrance of a franchise or permit under this section shall not be construed to revive or validate any lapsed or invalid franchise or permit, or to enlarge or add to the powers or privileges contained in the grant of any franchise or permit, or to waive any forfeiture. Any person seeking any order under this subsection authorizing the sale, assignment, lease, transfer, merger, consolidation or other disposition, direct or indirect, of any gas corporation, electrical corporation, water corporation, or sewer corporation, shall, at the time of application for any such order, file with the commission a statement, in such form, manner and detail as the commission shall require, as to what, if any, impact such sale, assignment, lease, transfer, merger, consolidation, or other disposition will have on the tax revenues of the political subdivisions in which any structures, facilities or equipment of the corporations involved in such disposition are located. The commission shall send a copy of all information obtained by it as to what, if any, impact such sale, assignment, lease, transfer, merger, consolidation or other disposition will have on the tax revenues of various political subdivisions to the county clerk of each county in which any portion of a political subdivision which will be affected by such disposition is located. Nothing in this subsection contained shall be construed to prevent the sale, assignment, lease or other disposition by any corporation, person or public utility of a class designated in this subsection of property which is not necessary or useful in the performance of its duties to the public, and any sale of its property by such corporation, person or public utility shall be conclusively presumed to have been of property which is not useful or necessary in the performance of its duties to the public, as to any purchaser of such property in good faith for value.

2. No such corporation shall directly or indirectly acquire the stock or bonds of any other corporation incorporated for, or engaged in, the same or a similar business, or proposing to operate or operating under a franchise from the same or any other municipality; neither shall any street railroad corporation acquire the stock or bonds of any electrical corporation, unless, in either case, authorized so to do by the commission. Save where stock shall be transferred or held for the purpose of collateral security, no stock corporation of any description, domestic or foreign, other than a gas corporation, electrical corporation, water corporation, sewer corporation or street railroad corporation, shall, without the consent of the commission, purchase or acquire, take or

hold, more than ten percent of the total capital stock issued by any gas corporation, electrical corporation, water corporation or sewer corporation organized or existing under or by virtue of the laws of this state, except that a corporation now lawfully holding a majority of the capital stock of any gas corporation, electrical corporation, water corporation or sewer corporation may, with the consent of the commission, acquire and hold the remainder of the capital stock of such gas corporation, electrical corporation, water corporation or sewer corporation, or any portion thereof.

3. Nothing herein contained shall be construed to prevent the holding of stock heretofore lawfully acquired, or to prevent upon the surrender or exchange of said stock pursuant to a reorganization plan, the purchase, acquisition, taking or holding of a proportionate amount of stock of any new corporation organized to take over, at foreclosure or other sale, the property of any corporation whose stock has been thus surrendered or exchanged. Every contract, assignment, transfer or agreement for transfer of any stock by or through any person or corporation to any corporation in violation of any provision of this chapter shall be void and of no effect, and no such transfer or assignment shall be made upon the books of any such gas corporation, electrical corporation, water corporation or sewer corporation or shall be recognized as effective for any purpose.

393.255. 1. To facilitate the development of an open and efficient marketplace for the generation of electricity in this state, the establishment of one or more independent system operators or their functional equivalents is required. Therefore, each electrical corporation, owning or controlling transmission facilities or providing transmission services in Missouri as of January 1, 1998 shall submit for approval to the Federal Energy Regulatory Commission an application for establishing or joining an independent system operator that shall:

(1) Independently manage and control transmission facilities of any electrical corporation;

(2) Provide for nondiscriminatory access to and use of the transmission system for buyers and sellers of electricity;

(3) Examine the transmission activities of the control area operators;

(4) Coordinate, plan, and order the installation of new transmission facilities;

(5) Adopt inspection, maintenance, repair, and replacement standards for the transmission facilities under its control and direct maintenance, repair, and replacement of all facilities under its control; and

(6) Implement procedures and act to assure the provision of adequate and reliable service.

These standards shall be consistent with reliability criteria no less stringent than the most stringent of those established by the Mid-American Interconnected Network, the Mid-Continent Area Power Pool, the Southwest Power Pool, the Southeast Reliability Council and the North American Electric Reliability Council or their successors.

2. The requirements of this section may be met by joining or establishing a regional independent system operator that meets the criteria enumerated in subsection 1, 3, and 4 of this section, as determined by the commission. To achieve the objectives set forth in subsection 1, the state of Missouri, through the appropriate officers, departments, and agencies, shall work cooperatively with the appropriate officials and agencies of those states contiguous to this state and the Federal Energy Regulatory Commission towards the formation of one or more regional independent system operators.

3. The independent system operator's governance structure must be fair and non-discriminatory, and the independent system operator must be independent of any one market participant or class of participants. The independent system operator's rules of governance must prevent control, or the appearance of control, of decision-making by any class of participants.

4. Participants in the independent system operator shall make available to the independent system operator all information required by the independent system operator in performance of its functions described herein. The independent system operator and the electrical corporations participating in the independent system operator shall make all filings required by the Federal Energy Regulatory Commission.

5. For those electrical corporations referred to in subsection 1, which have not filed with the Federal Energy Regulatory Commission by January 1, 2000 an application for establishment or participation in an independent system operator or if such application has not been approved by June 30, 2001, a five member oversight board shall be formed. The oversight board shall:

- (1) Oversee the creation of a Missouri independent system operator; and**
- (2) Determine the composition and initial terms of service of, and appoint the initial members of, the Missouri independent system operator board of directors.**

6. The oversight board shall consist of the following:

- (1) Three persons appointed by the governor with the advice and consent of the senate;**
- (2) One person appointed by the speaker of the house of representatives; and**
- (3) One person appointed by the president pro tem of the senate.**

7. The oversight board shall take the steps that are necessary to ensure the earliest possible incorporation of a Missouri independent system operator under chapters 347, 351, 355, 356, 357, 358 or 359, RSMo, and shall serve until the Missouri independent system operator is incorporated.

8. After notice and hearing, the commission shall require each electrical corporation referred to in subsection 1, that is not participating in an independent system operator meeting the requirements of subsections 1 and 3, to seek authority

from the Federal Energy Regulatory Commission to transfer functional control of transmission facilities to the Missouri independent system operator for control by the Missouri independent system operator consistent with the requirements of subsection 1. Upon approval by the Federal Energy Regulatory Commission, electrical corporations may also elect to transfer ownership of transmission facilities to the Missouri independent system operator. Nothing in this section shall be deemed to preclude the Missouri independent system operator from:

(1) Seeking authority, as necessary, to merge with or otherwise combine its operations with those of one or more other entities authorized to provide transmission services;

(2) Purchasing or leasing transmission assets from transmission-owning entities not required by this section to lease transmission facilities to the Missouri independent system operator; or

(3) Operating as a transmission public utility under the Federal Power Act.

9. Any other owner of transmission facilities in Missouri not required by this section to participate in an independent system operator shall be permitted, but not required, to become a member of the Missouri independent system operator.

10. The Missouri independent system operator created under this section, and any other independent system operator authorized by the Federal Energy Regulatory Commission to provide transmission services as a public utility under the Federal Power Act within the State of Missouri, shall be deemed an electrical corporation for purposes of sections 393.140 and 523.010, RSMo.

11. Electrical corporations referred to in subsection 1 may withdraw from the Missouri independent system operator upon becoming a member of an independent system operator or operators conforming with the criteria in subsection 1 and 3 and whose formation and operation has been approved by the Federal Energy Regulatory Commission. This subsection does not relieve any electrical corporation of any obligation under federal law.

12. Nothing in this section shall be construed as imposing any requirements or obligations that are in conflict with federal law.

393.260. 1. Upon the complaint in writing of the mayor or the president or chairman of the board of aldermen, or a majority of the council, commission or other legislative body of any city, town, village or county within which the alleged violation occurred, or by not less than twenty-five consumers or purchasers, or prospective consumers or purchasers of such gas, electricity, water or sewer **service**, as to the illuminating power, purity, pressure or price of gas, the efficiency of the electric incandescent lamp supply, the voltage of the current supplied for light, heat or power, or price of electricity sold and delivered in such municipality, or the purity, pressure or price of water or the adequacy, sanitation or price of sewer service, the commission

shall investigate as to the cause of such complaint.

2. When such complaint is made, the commission may, by its agents, examiners and inspectors, inspect the works, system, plant, devices, appliances and methods used by such person or corporation in manufacturing, transmitting and supplying such gas[, electricity] or water **or transmitting and supplying electricity** or furnishing said sewer service, and may examine or cause to be examined the books and papers of such person or corporation pertaining to the manufacture, sale, transmitting and supplying of such gas[, electricity] or water **or the sale, transmitting and supplying of electricity** or furnishing of such sewer service.

3. The form and contents of complaints made as provided in this section shall be prescribed by the commission. Such complaints shall be signed by the officers, or by the customers, purchasers or subscribers making them, who must add to their signatures their places of residence, by street and number, if any.

393.265. 1. Notwithstanding any of the ratemaking provisions of this section or any other sections of this chapter or the commission's rules that are deemed to require rate of return regulation, the commission, upon petition by an electrical corporation, and after notice and hearing, may authorize for some or all of the regulated services of that electrical corporation, the implementation of one or more programs consisting of:

(1) Alternatives to rate of return regulation, including but not limited to earnings sharing, rate moratoria, price caps or flexible rate options; or

(2) Other regulatory mechanisms that reward or penalize the electrical corporation through the adjustment of rates based on the performance of such electrical corporation.

In the case of other regulatory mechanisms that reward or penalize electrical corporations through the adjustment of rates based on the performance of such electrical corporations, the electrical corporation's performance shall be compared to standards established in the commission order authorizing the implementation of other regulatory mechanisms. The commission is specifically authorized to approve in response to such petitions different forms of alternatives to rate of return regulation or other regulatory mechanisms to fit the particular characteristics and requirements of each electrical corporation and its service territories.

2. The commission shall approve the program if it finds, based on the record, that:

(1) The program is likely to result in rates lower than otherwise would have been in effect under traditional rate of return regulation for the services covered by the program and are consistent with the provisions of sections 393.130 and 393.140, RSMo; and

(2) The program is likely to result in other substantial and identifiable benefits

that would be realized by customers served under the program and that would not be realized in the absence of the program; and

(3) The electrical corporation is in compliance with applicable commission standards for reliability and implementation of the program is not likely to adversely affect service reliability; and

(4) Implementation of the program is not likely to result in deterioration of the electrical corporation's financial condition; and

(5) Implementation is not likely to adversely affect the development of competitive electric generation markets; and

(6) The program includes annual reporting requirements and other provisions that will enable the commission to adequately monitor its implementation of the program; and

(7) The program includes provisions for an equitable sharing of any net economic benefits between the electrical corporation and its customers to the extent the program is likely to result in such benefits.

The commission shall issue its order approving or denying the program no later than two hundred seventy days from the date of filing of the petition. Any program approved under this section shall continue in effect until revised, modified or terminated by order of the commission as provided in this section. If the commission cannot make the above findings, it shall specifically identify in its order the reason or reasons why the proposed program does not meet the above criteria, and shall identify any modifications supported in the record, if any, that would cause the program to satisfy the above criteria. In the event the order identifies any such modifications it shall not become a final order subject to petitions for rehearing until fifteen days after service of same by the commission. The electrical corporation shall have fourteen days following the date of service of the order to notify the commission in writing whether it will accept any modifications so identified in the order or whether it has elected not to proceed with the program. If the electrical corporation notifies the commission that it will accept such modifications, the commission shall issue an amended order, without further hearing, within fourteen days following such notification, approving the program as modified and such order shall be considered to be a final order of the commission subject to petitions for rehearing and appellate procedures.

3. The commission shall open a proceeding to review any program approved under subsection 2, two years after the program is first implemented to determine whether the program is meeting its objectives, and may make such revisions, no later than two hundred seventy days after the proceeding is opened, as are necessary to result in the program meeting its objectives. An electrical corporation may elect to discontinue any program so revised. The commission shall not otherwise direct an

electrical corporation to revise, modify or cancel a program during its term of operation, except as found necessary, after notice and hearing, to ensure system reliability.

4. Upon its own motion or complaint, the commission may investigate whether the electrical corporation is implementing an approved program in accordance with the commission order approving the program. If the commission finds after notice and hearing, that the electrical corporation is not implementing the program in accordance with such order, the commission shall order the electrical corporation to comply with the terms of the order. Complaints relating to the program filed in accordance with section 393.260, RSMo, alleging that the program does not comply with the requirements of subsection 2 shall not be filed sooner than one year after the review provided for in subsection 3. The complainant shall bear the burden of proving the allegations in the complaint.

5. The commission may, upon subsequent petition by the electrical corporation, after notice and hearing, authorize the extension of a program that was previously approved pursuant to this section or approve revisions or modifications of such a program to be effective, after the initially approved program has been in effect. Any such petition seeking an extension, revision or modification of such a program must be accompanied by an evaluation of the program addressing the criteria set forth in subsection 2 hereof. The electrical corporation's petition may, but is not required to, specify a termination date for the extended, revised, or modified program at such intervals as may be ordered by the commission, for the purpose of determining whether the program should be revised, modified, or terminated.

393.270. 1. Before proceeding under a complaint presented as provided in sections 393.110 to 393.285, the commission shall cause notice of such complaint, and the purpose thereof, to be served upon the person or corporation affected thereby. Such person or corporation shall have an opportunity to be heard in respect to the matters complained of at a time and place to be specified in such notice. An investigation may be instituted by the commission as to any matter of which complaint may be made as provided in sections 393.110 to 393.285, or to enable it to ascertain the facts requisite to the exercise of any power conferred upon it.

2. After a hearing and after such investigation as shall have been made by the commission or its officers, agents, examiners or inspectors, the commission within lawful limits may, by order, fix the maximum price of gas, electricity, water or sewer service not exceeding that fixed by statute to be charged by such corporation or person, for the service to be furnished **at retail**; and may order such improvement in the manufacture, distribution or supply of gas, in the [manufacture,] transmission or supply of electricity, in the distribution or supply of water, in the collection, carriage, treatment and disposal of sewage, or in the methods employed by such persons or corporation as will in its judgment be adequate, just and reasonable. **The commission shall**

not have authority to fix the price of electric generation services sold by any electrical corporation to the electric power exchange once the electric power exchange is formed under the provisions of chapter 395.

3. The price fixed by the commission under sections 393.110 to 393.285 shall be the maximum price to be charged by such corporation or person for gas, electricity, **sewer** or water for the service to be furnished within the territory and for a period to be fixed by the commission in the order, not exceeding three years, except in the case of a sliding scale, and thereafter until the commission shall, upon its own motion or upon the complaint of any corporation or person interested, fix a higher or lower maximum price of gas, electricity, water or sewer service to be thereafter charged.

4. In determining the price to be charged for gas, electricity, or water the commission may consider all facts which in its judgment have any bearing upon a proper determination of the question although not set forth in the complaint and not within the allegations contained therein, with due regard, among other things, **to the price paid to the electric power exchange for electric generation services by an electrical corporation once available therefrom**, to a reasonable average return upon capital actually expended and to the necessity of making reservations out of income for surplus and contingencies.

5. In determining the price to be charged for sewer service the commission may consider all facts which in its judgment have any bearing upon a proper determination of the question although not set forth in the complaint and not within the allegations contained therein, with due regard, among other things, to a reasonable average return upon the value of the property actually used in the public service and to the necessity of making reservations out of income for surplus and contingencies.

393.296. The general assembly shall have exclusive authority to define stranded costs and the methods of recovering such costs and until it does so, the stranded costs and recovery mechanisms shall not otherwise be defined.

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

(1) **"Electric generation service", shall be defined as provided in subdivision (3) of section 395.030, RSMo;**

(2) **"Electric power exchange", the independent, nonprofit membership corporation formed in accordance with the provisions in chapter 395, RSMo;**

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

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

~~[(3)]~~ (5) "Rural area" shall be deemed to mean any area of the United States not included within the boundaries of any city, town or village having a population in excess of fifteen hundred inhabitants, and such term shall be deemed to include both the farm and nonfarm population thereof.

394.160. 1. Every cooperative constructing, maintaining and operating its electric transmission or distribution lines shall construct, maintain and operate such lines in conformity with the rules and regulations relating to the manner and methods of construction, maintenance and operation and as to safety of the public and as to induction or electrical interference with other lines now or hereafter from time to time prescribed by the public service commission for the construction, maintenance and operation of electric transmission or distribution lines or system. The jurisdiction, supervision, powers and duties of the public service commission shall extend to every such cooperative so far as concerns the construction, maintenance and operation of the physical equipment of such cooperative to the extent of providing for the safety of the public and the elimination or lessening of induction or electrical interference, including the power to minimize retail distribution electric line duplication for the sole purpose of providing for the safety of employees and the general public in those cases when, upon complaint, the commission finds that a proposed retail distribution electric line cannot be constructed in compliance with commission safety rules. The jurisdiction of the public service commission shall be extended only to the extent provided in this section, and nothing herein contained shall be construed as otherwise conferring upon such commission jurisdiction over the service, rates, financing, accounting or management of any such cooperative.

2. For the purpose of section 393.255, a rural electric cooperative existing under the provisions of this chapter that owns, leases, operates or controls any electric transmission facilities subject to the jurisdiction of the Federal Energy Regulatory Commission shall be considered an electrical corporation as defined in section 386.020, RSMo, and thereby required in accordance with section 393.255, RSMo, to submit for approval to the Federal Energy Regulatory Commission an application for establishing or joining an independent system operator as provided therein.

3. Applications, notices, hearings, findings and orders, and all other proceedings before the commission, in pursuance of the powers and duties herein conferred upon such commission, and review thereof, shall be the same as now or hereafter provided by law for other similar proceedings before the commission and review thereof.

[3.] 4. The commission may retain jurisdiction of any such cause for the purpose of making such supplemental orders in such cause as may be necessary in furtherance of the purposes of this section, or for the purpose of modifying or amending the terms of, or revoking any permit granted under, the provisions of this section for failure to comply with such rules, regulations, findings and orders made by the commission under authority of this section.

394.235. 1. A rural electric cooperative formed or existing under the provision of this chapter may elect, in accordance with the provisions of this section, to become a member of the electric power exchange once it is formed under the provisions of chapter 395. To determine whether the rural electric cooperative should become a member of the electric power exchange, a special meeting may be called by the board of directors or by at least ten percent of the members. Notice of the special meeting shall be provided to all members in accordance with subsection 5 of section 394.120. The proposition appearing on the ballot at the special meeting shall be:

"Shall the(insert the name of the rural electric cooperative) become a member of the Electric Power Exchange?"

G YES

G NO

If a majority of the members voting thereon vote in favor of the proposition, the rural electric cooperative shall become a member of the electric power exchange at a date no later than one year from such election.

2. If a rural electric cooperative has elected not to become a member of the electric power exchange, the rural electric cooperative may subsequently elect to become a member of the electric power exchange in accordance with the procedure provided in subsection 1 of this section.

3. Once a rural electric cooperative has become a member of the electric power exchange as provided by subsection 1 of this section:

(1) The rural electric cooperative shall continue to provide all transmission and distribution services required to serve all of its retail electric customers with electric generation services either purchased from the electric power exchange or acquired from sources mandated by federal law; and

(2) The rural electric cooperative shall not subsequently elect to discontinue its membership within the electric power exchange until the electric power exchange is dissolved or until the rural electric cooperative is otherwise authorized to discontinue its membership under the provisions specified in chapter 395.

4. If a rural electric cooperative does not elect to become a member of the electric power exchange, the rural electric cooperative or any entity owned, operated, controlled or under common control with the rural electric cooperative shall not sell, trade or otherwise dispose of electric generation services to the electric power exchange or to any retail electric customers in this state receiving service from another provider unless such electric generation services are provided to such retail electric customers in accordance with the provisions specified in section 394.315.

5. At no time shall a rural electric cooperative make an election under provisions of this section if such election places at risk:

(1) Any status held by the rural electric cooperative which provides exemption

from state or federal tax statutes; or

(2) Any debt, credit instrument or other contractual financial obligation held by, or on behalf of the rural electric cooperative which was entered into under an exemption from state or federal tax statutes.

395.010. This chapter may be cited as "The Electric Power Exchange Law".

395.020. 1. The citizens and businesses of this state have been provided with an affordable, reliable and safe electric system. The rates for electric service in this state have traditionally been far below the average rates for electric service on a national level. State and federal regulation have preserved for the citizens and businesses of this state an affordable, reliable and safe electric system, while providing the electric utilities of this state the opportunity to earn a fair return on their investment. It is therefore in the best interest of the citizens and businesses of this state to preserve the integrity and reliability of the electrical system as this state transitions its regulated utility system to one which is competitive.

2. Changes in federal statutes and regulations as well as legislative actions of other states have fostered competitive forces in the electric generation market. It is believed that competition in the electric generation market will result in lower prices for electricity on a national level. To accommodate the transition from a regulated to a competitive electric generation market in this state, changes must be made to the manner in which electric utilities are regulated.

3. It is paramount to the health and welfare of the citizens and businesses of this state that adequate supplies of electricity are available. Furthermore, as this state transitions to a competitive electric generation environment, the reliability, security and safety of the electrical system shall not be compromised through competitive pressures.

4. Electric utilities have traditionally invested significant financial resources in physical plant and personnel to preserve and enhance the operation of the electrical system. Through the regulatory process, the cost of these investments has been recovered from the consumers of electricity in this state through justified and reasonable electric rates. It is in the best interest of this state to allow a reasonable opportunity to the existing electric utilities in this state to obtain a return on all prudently incurred investments that were made in reliance of this assurance of an opportunity to earn a reasonable return on such investments. Furthermore, it would be inequitable to allow new entrants into the electric generation market to gain an unreasonable advantage over this state's existing electric utilities because of the investments made by the electric utilities in the regulated environment.

5. As this state transitions to a competitive electric generation market, all

citizens and businesses must benefit. To ensure that all citizens and businesses of this state benefit alike during the transition to a competitive electric generation market, an independent, nonprofit statewide electric power exchange shall be established. Furthermore, all customers of electric utilities should be provided with sufficient information to allow them to understand the changes that are occurring within the electric service industry.

395.030. In this chapter, unless the context otherwise requires, the following terms shall mean:

(1) "Distribution service", those services provided from the point where electricity leaves the transmission system to the point at which the electricity is delivered to the consumer;

(2) "Electrical corporation", defined as is provided in section 386.020, RSMo;

(3) "Electric generation service", the provision or supply of electricity through transmission and distribution systems that may be purchased or otherwise acquired by the electric power exchange from qualified electric generation suppliers and thereafter sold to members to be used by them for providing electric service to retail customers in this state but does not include transmission or distribution services;

(4) "Independent director", any director appointed in accordance with the provisions of section 395.120, who shall not be employed by or a designated representative of any member of the electric power exchange nor any entity owned, operated, controlled, or under common control with any member of the electric power exchange;

(5) "Member", any electrical corporation, municipally owned or operated electric power system or rural electric cooperative selling electricity to retail customers in this state that is admitted to the electric power exchange and maintaining membership therein;

(6) "Municipally owned or operated power system", defined as is provided in section 91.025, RSMo;

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

(8) "Qualified electric generation service supplier", any supplier of electric generation services within or without this state that meets or exceeds the qualifications provided in this chapter and those hereafter defined in the rules to be used by the electric power exchange for qualifying such suppliers and such supplier has been duly designated as such in writing by the electric power exchange in accordance with the provisions set out in section 395.145;

(9) "Retail electric customer", a single entity using electric power or energy at

a single premises and that either:

(a) Is receiving or is eligible to receive tariffed services from an electrical corporation; or

(b) That is served by a municipally owned or operated power system or rural electric cooperative within any area in which the municipally owned or operated power system or rural electric cooperative is or would be entitled to provide service under the law in effect on the effective date of this act;

(10) "Rural electric cooperative", all such entities formed or existing in accordance with the provisions of chapter 394, RSMo, that provide electric service to retail electric customers or members;

(11) "Tariffed service", service provided to retail customers by an electrical corporation as in accordance with the tariffs on file with the Missouri public service commission;

(12) "Transmission service", all services, including those services under the jurisdiction of the Federal Energy Regulatory Commission, that are provided from the point where electricity is generated to the point where the electricity enters the distribution system.

395.040. A nonprofit, membership corporation may be organized under this chapter for the sole purpose of providing a competitive marketplace for the sale and purchase of electric generation services in this state. Only one corporation organized under this chapter may operate in this state at any one time.

395.050. Five or more natural persons who are citizens of the United States and employed by or a designated representative of an electrical corporation, a municipally owned or operated power system or a rural electric cooperative providing electric service to retail customers in this state may organize an electric power exchange as herein provided.

395.060. 1. The articles of incorporation of an electric power exchange shall recite in the caption that they are executed pursuant to this chapter, shall be signed and acknowledged in duplicate by at least five incorporators and shall state:

- (1) The name of the electric power exchange;**
- (2) The address of its principal office;**
- (3) The names and addresses of the incorporators;**
- (4) The number of years the electric power exchange is to continue, which may be any number including perpetuity;**
- (5) The names and addresses of the persons who shall constitute its first board of directors including those independent directors appointed in accordance with the provisions set out in subdivision (1) of section 395.120; and**
- (6) Any provisions not inconsistent with this chapter deemed necessary or**

advisable for the conduct of its business and affairs.

2. Such articles of incorporation shall be submitted to the secretary of state for filing as provided in this chapter.

395.070. The name of the electric power exchange authorized to exist under this chapter shall include the words "electric", "power" and "exchange". The name of the electric power exchange shall distinguish it from the name of any other corporation organized under the laws of, or authorized to transact business in, this state. The words "electric", "power" and "exchange" shall not be used in the name of any corporation organized under the laws of, or authorized to transact business in, this state, except an electric power exchange transacting business in this state pursuant to the provisions of this chapter.

395.080. The electric power exchange shall have power:

- (1) To sue and be sued, in its corporate name;
- (2) To have succession by its corporate name for the period stated in its articles of incorporation or, if no period is stated in its articles of incorporation, to have such succession perpetually;
- (3) To adopt a corporate seal and alter the same at pleasure;
- (4) To purchase, trade or otherwise acquire electric generation services, as provided in this chapter, from any qualified electric generation service supplier;
- (5) To sell, trade or otherwise dispose of electric generation services to its members and as may be provided in this chapter to non-members provided the sale of electric generation services to non-members does not exceed fifteen percent of the total annual electric generation service sales of the electric power exchange;
- (6) To construct, purchase, take, receive, lease as lessee, or otherwise acquire, and to own, hold, use, equip, maintain and operate, and to sell, assign, transfer, convey, exchange, lease as lessor, mortgage, pledge, or otherwise dispose of or encumber lands, buildings, structures, equipment and any and all kinds and classes of real and personal property whatsoever, which shall be deemed necessary, convenient or appropriate to accomplish the purpose for which the electric power exchange is organized;
- (7) To borrow money and otherwise contract indebtedness, and to issue notes, bonds and other evidences of indebtedness therefor, and to secure the payment thereof by mortgage, pledge, deed of trust, or any other encumbrance upon any or all of its then-owned or after-acquired real or personal property, assets, revenues or income;
- (8) To conduct its business in the state of Missouri;
- (9) To adopt, amend and repeal bylaws;
- (10) To do and perform any and all other acts and things, and to have and exercise any and all other powers which may be necessary, convenient or appropriate to accomplish the purpose for which the electric power exchange is organized.

395.090. 1. The electric power exchange may amend its articles of incorporation by complying with the following requirements:

(1) The proposed amendment shall be first approved by the board of directors and shall then be submitted to a vote of the members at any annual or special meeting thereof, the notice of which shall set forth the proposed amendment. The proposed amendment, with such changes as the members shall choose to make therein, shall be deemed to be approved on the affirmative vote of not less than two-thirds of the votes cast by those members voting thereon at such meeting; and

(2) (a) Upon such approval by the members, articles of amendment shall be executed and acknowledged in duplicate on behalf of the electric power exchange by its president or vice president and its corporate seal shall be affixed thereto and attested by its secretary. The articles of amendment shall recite in the caption that they are executed pursuant to this chapter and shall state:

a. The name of the electric power exchange;
b. The address of its principal office;
c. The date of the filing of its articles of incorporation in the office of the secretary of state; and

d. The amendment to its articles of incorporation;

(b) The president or vice president executing such articles of amendment shall also make and annex to each copy thereof an affidavit stating that the provisions of this section were duly complied with;

(c) Such articles of amendment and affidavit shall be submitted to the secretary of state for filing as provided in this chapter.

2. The electric power exchange may, upon authorization of a majority of the members at any regular or special meeting, change the location of its principal office by filing a certificate of change of principal office, executed and acknowledged in duplicate by its president or vice president under its seal attested by its secretary, in the office of the secretary of state, and also by filing such certificate of change in each county office in which its articles of incorporation or any prior certificate of change of principal office of such electric power exchange has been filed. Such electric power exchange shall also, within thirty days after the filing of such certificate of change of principal office in any county office, file therein certified copies of its articles of incorporation and all amendments thereto, if the same are not already on file therein.

395.100. 1. Articles of incorporation, amendment or dissolution, as the case may be, when executed and acknowledged in duplicate and accompanied by such affidavits as may be required by applicable provisions of this chapter, shall be presented to the secretary of state for filing in the records of the secretary of state's office.

2. If the secretary of state shall find that the articles presented conform to the

requirements of this chapter, the secretary of state shall, upon the payment of the fees as in this chapter provided, file one copy of the articles so presented in the records of the secretary of state's office and upon such filing, the incorporation, amendment, or dissolution provided for therein shall be in effect. The secretary of state, immediately upon the filing in the secretary of state's office of any articles pursuant to this chapter, shall transmit a certified copy of the certificate of incorporation, amendment or dissolution, as the case may be, attached, to the recorder of deeds of the county in which the principal office of the electric power exchange affected by such incorporation, amendment or dissolution shall be located.

3. The recorder of deeds of any county, upon receipt of any such certified copy, shall file, record and index the same in the records of the recorder of deed's office, but the failure of the secretary of state or of a recorder of deeds of a county to comply with the provisions of this section shall not invalidate such articles.

395.110. The original bylaws of the electric power exchange may be adopted by its board of directors. Thereafter bylaws shall be adopted, amended or repealed on the affirmative vote of not less than a majority of the votes cast by the members voting thereon. The bylaws shall set forth the rights and duties of members and directors and may contain other provisions for the regulation and management of the affairs of the electric power exchange not inconsistent with this chapter or its articles of incorporation.

395.120. 1. No person shall become a member of the electric power exchange unless such person owns, operates, controls or is under common control with any electrical corporation, municipally owned or operated electric power system or rural electric cooperative in this state and such person shall agree to purchase from the electric power exchange all electric generation services required by such person, except those generation service requirements preempted by federal law, to serve its retail electric customers in this state when such electric generation services shall be available from the electric power exchange. Once a person becomes a member of the electric power exchange and such power is available therefrom, that person shall not generate, purchase, trade or otherwise acquire electric generation services for the purpose of serving its retail electric customers in this state from any source other than those made available by the electric power exchange and those sources mandated by federal law until the electric power exchange is dissolved as provided by this chapter. The bylaws of the electric power exchange may provide that any member found to be generating its own or otherwise acquiring electric generation services from any other source than those purchased from the electric power exchange shall be subject to a penalty, which shall not exceed the market value of the power generated, purchased or otherwise acquired, unless such power was generated or acquired on an emergency basis with

approval from the electric power exchange.

2. There shall be charged to each applicant and collected by the electric power exchange a one time membership fee, rounded up to the nearest whole dollar, equal to one dollar for every one hundred retail electric customers served by such applicant in this state on the date the applicant petitions membership into the electric power exchange; but such membership fee shall not exceed ten thousand dollars nor be less than one dollar.

3. Membership in the electric power exchange shall not be transferable, except as provided in the bylaws. The bylaws may prescribe additional qualifications and limitations in respect of membership.

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

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

6. Meetings of members shall be held at such place as may be provided in the bylaws. In the absence of any such provisions, all meetings shall be held in the city or town in which the principal office of the electric power exchange is located.

7. Except as herein otherwise provided, written or printed notice stating the time and place of each meeting of members and, in the case of a special meeting, the purpose or purposes for which the meeting is called, shall be given to each member, either personally or by mail, not less than twenty-five days before the date of the meeting.

8. Fifty percent of the members represented in person at the meeting shall constitute a quorum for the transaction of business at all meetings of the members, unless the bylaws prescribe a greater percentage of the members for a quorum. If less than a quorum is present at any meeting, a majority of those present in person may adjourn the meeting from time to time without further notice.

9. Each member shall be entitled to the number of votes provided to it in accordance with the formula specified in section 395.130, on each matter submitted to a vote at a meeting. Voting shall be in person, but, if the bylaws so provide, may also be by proxy or by mail, or both. If the bylaws provide for voting by proxy or by mail, they shall also prescribe the conditions under which proxy or mail voting shall be exercised.

395.130. Each member of the electric power exchange shall be entitled to one vote for each ten thousand retail electric customers it serves in this state provided no member shall have greater than two hundred votes nor less than one vote.

395.140. 1. The business and affairs of the electric power exchange shall be

managed by a board of not less than twelve directors, at least one-half of whom shall be classified as independent directors as defined in section 395.030. One-third of the initial independent directors shall be appointed by the governor, one-third by the president pro tem of the senate, and one-third by the speaker of the house. Those individuals appointed to serve as independent directors may be composed of, but not limited to, representatives of power marketers, independent power producers, public interest groups, public service commission staff and non-market participants. All other directors shall be elected by the members of the electric power exchange. The bylaws shall prescribe the number of independent and non-independent directors, their qualifications, other than those provided for in this chapter, the manner of holding meetings of the board of directors and of the election of directors and appointment of independent directors of successors to directors and independent directors who shall resign, die or otherwise be incapable of acting. The bylaws may also provide for the removal of directors and independent directors from office and for the election or appointment of their successors. Directors and independent directors shall not receive any salaries for their services as a member of the board of directors. The bylaws may, however, provide that a fixed fee and expenses of attendance, if any, may be allowed to each director and independent director for attendance at each meeting of the board of directors.

2. The directors and independent directors of the electric power exchange named in the articles of incorporation shall hold office until the next following meeting of the members or until their successors shall have been elected or appointed and qualified.

3. The bylaws shall provide that the directors and independent directors shall be divided into three classes, each class to be comprised of as nearly an equal number of directors and independent directors as possible, with the term of office of the first class to expire at the next succeeding annual meeting and the term of the second class to expire at the second succeeding annual meeting, and the term of the third class to expire at the third succeeding annual meeting. At each annual meeting after such classification, the number of directors equal to the number of directors in the class whose term expires at the time of such meeting shall be elected by the members of the electric power exchange while the number of independent directors equal to the number of independent directors in the class shall be appointed by the governor; each director elected and each independent director appointed shall hold office until the third succeeding annual meeting.

4. A majority of the board of directors shall constitute a quorum.

5. The board of directors may exercise all of the powers of the electric power exchange except such as are conferred upon the members by this chapter, or its articles

of incorporation or bylaws.

395.150. The officers of the electric power exchange shall consist of a president, vice president, secretary and treasurer, who shall be elected annually by the board of directors. No person shall continue to hold the offices of president or vice president after ceasing to be a member of the board of directors. The offices of secretary and treasurer may be held by the same person and need not be a member of the board of directors. The board of directors may also elect or appoint such other officers, agents or employees as it shall deem necessary or advisable and shall prescribe the powers and duties thereof. Any officer may be removed from office and a successor elected in the manner prescribed in the bylaws.

395.160. 1. The electric power exchange formed in accordance with the provisions of this chapter shall be fully operational and thereby capable of providing for sale to all members therein sufficient electric generation services within five hundred forty days of the date of incorporation, but in no event shall such date be later than December 31, 2003. Once the electric power exchange is fully operational, the sale of electric generation services in this state shall be considered for all purposes to be competitive.

2. When sufficient electric generation services are available from the electric power exchange to supply the needs of the members therein, no member shall generate, purchase or otherwise acquire electric generation services for sale to retail customers in this state, except those which are mandated by federal law, from any other source than the electric power exchange. The provisions in this subsection shall not apply to those electric generation services generated, purchased or otherwise acquired by members to alleviate transmission system constraints as requested by an independent system operator.

3. The board of directors shall, subject to approval of the members as required in section 395.110, prescribe in the bylaws rules:

(1) For establishing, modifying or eliminating rates to be charged for electric generation services purchased therefrom. The rules shall ensure that the rates charged by the electric power exchange are reflective of the market price for such services including a component for covering the general operational expenses of the electric power exchange;

(2) Defining the billing practices and procedures to be used by the electric power exchange for billing those members purchasing electric generation services therefrom. Finance charges or late payment fees may be assessed by the electric power exchange to any bill not paid in full when due provided such finance charges or late payment fees are within the legal limits prescribed by law in this state;

(3) Establishing or modifying the bidding process and procedures to be used by

members for purchasing electric generation services therefrom. The rules defining the bidding process and procedures may require members to project their electric generation service requirements on an annual, monthly and weekly basis or for any other interval deemed necessary by the electric power exchange for submitting requests for bids from qualified electric generation service providers and each member shall report those projections on a timely basis to the electric power exchange. The bidding process rules of the electric power exchange may also accommodate bids from members on a day ahead basis and provide a separate and distinct pricing mechanism for those electric generation services purchased on a spot basis;

(4) Establishing or modifying the bidding process and procedures to be used by qualified electric generation service suppliers proposing to sell such services to the electric power exchange. The rules defining these processes and procedures shall facilitate, promote, encourage and expedite the sale of such services to ensure that an active, vibrant and competitive market for electric generation services is maintained in this state in a nondiscriminatory manner;

(5) Requiring the electric power exchange to maintain, by purchasing from qualified electric generation service suppliers, minimum electric generation service reserves. The electric generation service reserve requirements of the electric power exchange shall be no less stringent than the most stringent of those imposed on any of its members prior to the formation of the electric power exchange by the Mid-American Interconnected Network, the Mid-continent Area Power Pool, the Southwest Power Pool, the Southeast Reliability Council, the North American Electric Reliability Council or their successors. The cost for maintaining these reserve requirements shall be allocated on an annual kilowatt system peak basis by the electric power exchange to the rates charged for electric generation services to its members;

(6) Requiring the electric power exchange to purchase electric generation services on a nondiscriminatory basis from only those sources that have been certified in accordance with section 395.170, by the electric power exchange to be qualified to provide such services;

(7) Requiring the electric power exchange to purchase the lowest cost electric generation services available from qualified electric generation service providers to fulfill the requirements of its members and to maintain reserve requirements;

(8) Requiring the electric power exchange to sell electric generation services to its members on a nondiscriminatory basis;

(9) Preventing control, or the appearance of control, of decision-making by any member of the electric power exchange;

(10) Requiring each member on an annual basis to provide to the electric power exchange load projections to serve the member's retail customers in this state for a five

calendar year period in order to signal the market for future electric generation service needs;

(11) Strictly defining market conditions or circumstances that must exist before the electric power exchange may sell previously purchased electric generation services to any person or entity that is not a member of the electric power exchange. Under no circumstance may this subdivision be construed to permit the electric power exchange to sell any electric generation services:

(a) To non-members which would result in higher cost electric generation services for members unless such sale is required to alleviate transmission system constraints or is required to maintain system stability in a control area; or

(b) Directly to any retail customer in this state;

(12) Governing the price to be paid by the electric power exchange for any electric generation services supplied to the electric power exchange by a member or nonmember or the price to be paid to the electric power exchange for any electric generation services sold by the electric power exchange to a member or nonmember to alleviate transmission constraints as requested by an independent system operator. The rules governing the price paid and the procedures used for supplying generation services to the electric power exchange to alleviate transmission constraints shall be consistent with those provided in the applicable open access tariffs on file with the Federal Energy Regulatory Commission.

4. The electric power exchange shall have the authority to investigate the need for, or adopt rules requiring, functional separation between the generation services and the delivery services of any member whose principal service area is in this state as necessary to meet the objective of creating efficient competition between qualified electric generation suppliers. In establishing or considering the need for rules or functional separation, the electric power exchange shall take into account the effects on the cost and reliability of service and the obligation of the member to provide electric generation services in accordance with this chapter. The electric power exchange shall adopt rules that are a cost effective means to ensure compliance with this subsection. Nothing in this subsection shall be construed as imposing any requirements or obligations that are in conflict with federal law.

395.170. 1. An electric generation service supplier must obtain a certificate of service authority from the electric power exchange in accordance with the provisions of this section before becoming eligible to provide electric generation services to the electric power exchange. Any certificate of service authority granted under the provisions of this section to an electric generation service provider shall be valid for the period specified thereon but shall not exceed a period of three years. The electric power exchange shall have authority, after notice and hearing held on complaint by

any member or on the electric power exchange's own motion:

(1) To order a qualified electric generation supplier to cease and desist, or correct, any violation of or non-conformance with the provisions of this section or any rules promulgated by the electric power exchange;

(2) To revoke or suspend any certificate of service authority granted pursuant to the provisions of this section for substantial or repeated violations of any provision of this chapter or any rules promulgated by the electric power exchange; and

(3) To impose financial penalties for violations of, or non-conformance with, the provisions of this section or rules promulgated by the electric power exchange, not to exceed:

(a) Fifty thousand dollars per occurrence; or

(b) Five hundred thousand dollars per day for those violations or non-conformances which continue after the electric power exchange issues a cease-and-desist order.

2. An electric generation service supplier seeking a certificate of service authority shall file with the electric power exchange a verified application containing information showing that the applicant meets the requirements of this section. No later than forty-five days after the application is properly filed by the electric generation supplier, the electric power exchange shall issue its order in writing granting or denying the application.

3. The electric power exchange shall grant the application for a certificate of service authority if it makes the findings set forth in this subsection based on the verified application and such other information as the applicant may submit:

(1) That the applicant possesses sufficient technical, financial and managerial resources and abilities to provide the electric generation service for which it seeks a certificate of service authority. In determining the level of technical, financial and managerial resources and abilities which the applicant must demonstrate, the electric power exchange shall consider whether the applicant seeks to provide electric generation services using property, plant and equipment which it owns, controls or operates;

(2) That the applicant will comply with all applicable federal, state, regional and industry rules, policies, practices and procedures for the use, operation and maintenance of the safety, integrity and reliability of the interconnected electric transmission system;

(3) That the applicant will only provide electric generation services to the electric power exchange and will not attempt to sell, trade or otherwise dispose of electric generation services directly to retail electric customers in this state unless requested to do so by an independent system operator with the approval of the electric

power exchange;

(4) That the applicant will comply with such informational or reporting requirements as the electric power exchange may by rule require. Any data related to contracts for the purchase of power by the electric power exchange from a qualified electric generation service supplier shall be made available for review by the members of the electric power exchange and to the extent that the electric power exchange determines is reasonably necessary to ensure that an active market for electric generation services exists to produce the lowest cost electric generation services possible;

(5) That the applicant will, upon request of the electric power exchange:

(a) Post a bond or letter of credit from a responsible surety or financial institution of sufficient size for the nature and scope of the electric generation services to be provided;

(b) Demonstrate that adequate insurance is available for the scope and nature of the electric generation services to be provided; and

(c) Provide verification of experience providing similar electric generation services in other jurisdictions;

(6) That such applicant be capable of verifying with sufficient certainty that electric corporations, municipally owned or operated power systems and rural electric cooperatives with generating facilities in this state are allowed by law to sell electric generation services to the retail electric customers of the applicant directly or to a power exchange. The requirements of this subdivision shall not apply to independent power producers within or without this state nor to power marketers within or without this state unless such power marketer is owned, operated, controlled or under common control with an entity that generates electric generation services in a state, region or territory that does not allow by law other suppliers of electric generation services to sell equivalent services to its retail electric customers either directly or to a power exchange.

395.180. 1. Each member of the electric power exchange who, as of the date of passage of this act, is regulated by the Missouri public service commission shall:

(1) Continue providing retail electric service to all retail customers within its defined service territory in this state and shall continue to bill each customer for such services with a bundled bill until the commission requires such billing to be unbundled in accordance with section 393.140, RSMo;

(2) Continue to have an obligation to extend, enlarge or modify its transmission and/or distribution systems to connect, reconnect or otherwise supply electric service to all retail electric customers within its defined service territory in this state in accordance with the tariffs on file with the commission;

(3) Provide access on a nondiscriminatory basis to its transmission and distribution systems to any qualified electric generation supplier providing such services to the electric power exchange or to any electric generation service supplier that has been requested to supply electric generation services to alleviate transmission system constraints by an independent system operator or control area operator;

(4) Continue to provide customer service functions such as, but not limited to, detailed monthly billing statements, continuous electric service restoration response, twenty-four hour access to personnel to report outages, to discuss billing questions, to inquire about energy assistance programs, to request, change, modify or disconnect electric service or to request energy efficiency information provided such services are carried out in accordance with tariffs on file with the Missouri public service commission; and

(5) File tariffs with the commission removing from tariffed rates the generation, energy and capacity cost of providing electric generation services from its own generation sources and replacing such cost with the cost of electric generation services acquired from the electric power exchange once such services are available therefrom.

2. Each member of the electric power exchange shall continue to assist low-income retail electric customers needing financial assistance by supporting state and federal programs established to provide such assistance. Each member may provide or continue to provide funds for weatherization assistance programs designed to minimize the amount of energy consumed by those customers, receiving financial assistance from the state or federal government. The cost of providing such services by members regulated by the public service commission shall be allocated among all retail electric customers of regulated electrical corporations in this state.

395.190. 1. Revenues of an electric power exchange for any fiscal year in excess of the amount thereof necessary:

(1) To defray expenses of the electric power exchange and of the operation and maintenance of its facilities during such fiscal year;

(2) To pay interest and principal obligations of the electric power exchange coming due in such fiscal year;

(3) To finance or to provide a reserve for the financing of the construction or acquisition by the electric power exchange of additional facilities to the extent determined by the board of directors;

(4) To pay for electric generation services purchased by the electric power exchange;

(5) To provide a reasonable reserve for working capital; and

(6) To provide a reserve for the payments of indebtedness of the electric power exchange maturing more than one year after the date of the incurrence of such

indebtedness in an amount not less than the total of the interest and principal payments in respect thereof required to be made during the next following fiscal year; shall, unless otherwise determined by a vote of the members, be distributed by the electric power exchange to its members as patronage refunds prorated in accordance with the patronage of the electric power exchange by the respective members paid for during such fiscal year.

2. Nothing herein contained shall be construed to prohibit the payment by an electric power exchange of all or any part of its indebtedness prior to the date when the same shall become due.

395.200. It shall be the duty of the electric power exchange to provide an annual report to each member and to the Missouri general assembly, and such report shall be verified by oath of the president, treasurer, general manager or receiver, if any, thereof. The verification shall be made by said official holding office at the time of the filing of said report, and if not made upon the knowledge of the person verifying the same, shall set forth the sources of the person's information and person's grounds of beliefs as to any matters not stated to be verified upon the person's knowledge. The report shall show in detail the amount of its authorized bonded indebtedness and the amount of its bonds and other forms of evidence of indebtedness issued and outstanding; its receipts and expenditures during the preceding year; the amount paid as interest on its bonds; the amount of patronage refunds if any returned to members during the preceding year; the names of its officers and the aggregate amount paid as salaries to them and the amount paid as wages to its employees; the average price paid by the electric power exchange each week for a megawatt-hour of power during the preceding year; and such other facts as may be requested by the members of the electric power exchange or by the members of the Missouri general assembly. Such reports shall be in the form, cover the period and be available at the time prescribed by the Missouri general assembly for review by the members and by the general assembly. The members and the general assembly may, from time to time, request that changes and additions be made to the form of such reports. When any such report is defective or believed to be erroneous, the general assembly shall notify the electric power exchange to amend the same within a time prescribed by the general assembly. If the electric power exchange shall neglect to make any such report or which shall fail to correct any such report within the time prescribed by the general assembly the electric power exchange shall be liable to a penalty of one hundred dollars and an additional penalty of one hundred dollars for each day after the prescribed time for which it shall neglect to file or correct the same, to be sued for in the name of the state of Missouri. The amount recovered in any such action shall be paid to the public school fund of the state. The general assembly may extend the time prescribed for

cause shown.

395.210. 1. An electric power exchange may not sell, lease or otherwise dispose of, except by mortgage or deeds of trust, all or any substantial portion of its property unless such sale, lease or other disposition is authorized at a duly held meeting of the members thereof by the affirmative vote of not less than two-thirds of all the votes cast by the members of the electric power exchange thereon, and unless the notice of such proposed sale, lease or other disposition shall have been contained in the notice of the meeting.

2. Notwithstanding any other provisions of the law, the board of directors of the electric power exchange, without authorization by the members thereof, shall have full power and authority to authorize the execution and delivery of a mortgage or mortgages or a deed or deeds of trust upon, or the pledging or encumbering of, any or all of the property, assets, rights, privileges of the electric power exchange, whether acquired or to be acquired, and income therefrom, all upon such terms and conditions as the board of directors shall determine, to secure any indebtedness of the electric power exchange to any bank or other financial institution or organization.

395.300. 1. An electric power exchange that has not commenced business may dissolve voluntarily by delivering to the secretary of state articles of dissolution, executed and acknowledged in duplicate on behalf of the electric power exchange by a majority of the incorporators, which shall state:

- (1) The name of the electric power exchange;**
- (2) The address of its principal office;**
- (3) The date of its incorporation;**
- (4) That the electric power exchange has not commenced business;**
- (5) That the amount, if any, actually paid in on account of membership fees, less any part thereof disbursed for necessary expenses, has been returned to those entitled thereto;**
- (6) That no debt of the electric power exchange remains unpaid; and**
- (7) That a majority of the incorporators elect that the electric power exchange be dissolved.**

2. Such articles of dissolution shall be submitted to the secretary of state for filing as provided in this chapter.

3. An electric power exchange which has commenced business and become fully operational shall not be dissolved without approval of the Missouri general assembly. Upon receiving approval of the Missouri general assembly, the electric power exchange may dissolve voluntarily and wind up its affairs in the following manner:

- (1) The board of directors shall first recommend that the electric power**

exchange be dissolved voluntarily and thereafter the proposition that the electric power exchange be dissolved shall be submitted to the members of the electric power exchange at any annual or special meeting, the notice of which shall set forth such proposition. The proposed voluntary dissolution shall be deemed to be approved upon the affirmative vote of not less than a majority of the votes cast by the members thereon;

(2) Upon such approval, a certificate of election to dissolve, herein designated the "certificate", shall be executed and acknowledged in duplicate on behalf of the electric power exchange by its president or vice president, and its corporate seal shall be affixed thereto and attested by its secretary. The certificate shall state:

- (a) The name of the electric power exchange;
- (b) The address of its principal office;
- (c) The names and addresses of its directors; and

(d) The total number of members of the electric power exchange and the number of votes made by the members for and against the voluntary dissolution of the electric power exchange. The president or vice president executing the certificate shall also make and annex thereto an affidavit stating that the provisions of subsection 3 were duly complied with. Such certificate and affidavit shall be submitted to the secretary of state for filing as provided in this chapter;

(3) Upon the filing of the certificate and affidavit by the secretary of state, the electric power exchange shall cease to carry on its business except insofar as may be necessary for the winding up thereof, but its corporate existence shall continue until articles of dissolution have been filed by the secretary of state;

(4) After the filing of the certificate and affidavit by the secretary of state, the board of directors shall immediately cause notice of the winding up proceedings to be mailed to each known creditor and claimant and to be published once a week for two successive weeks in a newspaper of general circulation in the county in which the principal office of the electric power exchange is located;

(5) The board of directors shall become trustees and have full power to wind up and settle the affairs of the electric power exchange and shall proceed to collect the debts owing to the electric power exchange, convey and dispose of its property and assets, pay, satisfy, and discharge its debts, obligations, and liabilities, and do all other things required to liquidate its business and affairs, and after paying or adequately providing for the payment of all its debts, obligations, and liabilities, shall distribute the remainder of its property and assets among its members in proportion to the aggregate patronage of each such member during the seven years next preceding the date of such filing of the certificate, or, if the electric power exchange shall not have been in existence for such period, during the period of existence; and

(6) (a) When all debts, liabilities and obligations of the electric power exchange have been paid and discharged or adequate provisions shall have been made therefor, and all of the remaining property and assets of the electric power exchange shall have been distributed to the members pursuant to the provisions of this section, the board of trustees shall authorize the execution of articles of dissolution which shall thereupon be executed and acknowledged on behalf of the electric power exchange by its president or vice president, and its corporate seal shall be affixed thereto and attested by its secretary. Such articles of dissolution shall recite in the caption that they are executed pursuant to this chapter and shall state:

- a. The name of the electric power exchange;**
- b. The address of the principal office of the electric power exchange;**
- c. That the electric power exchange has heretofore delivered to the secretary of state a certificate of election to dissolve and the date on which the certificate was filed by the secretary of state in the records of the secretary of state's office;**
- d. That all debts, obligations and liabilities of the electric power exchange have been paid and discharged or that adequate provision has been made therefor;**
- e. That all the remaining property and assets of the electric power exchange have been distributed among the members in accordance with the provisions of this section; and**
- f. That there are no actions or suits pending against the electric power exchange;**

(b) The president or vice president executing the articles of dissolution shall also make and annex thereto an affidavit stating that the provisions of this subsection were duly complied with;

(c) Such articles of dissolution and affidavit accompanied by proof of the publication required in this subsection, shall be submitted to the secretary of state for filing as provided in this chapter.

395.310. 1. There shall be charged and collected for:

- (1) Filing articles of incorporation, ten dollars;**
- (2) Filing articles of amendment, one dollar;**
- (3) Filing certificate of election to dissolve, one dollar;**
- (4) Filing articles of dissolution, two dollars; and**
- (5) Filing certificate of change of principal office, two dollars.**

2. All fees shall be made payable to and collected by the state director of revenue.

395.320. The electric power exchange transacting business in this state pursuant to this chapter shall pay annually, on or before the first day of July, to the state director of revenue, a fee of ten dollars.

395.330. The private property of the members of an electric power exchange shall be exempt from execution for the debts of the electric power exchange and no member shall be liable or responsible for any debts of the electric power exchange.

395.340. The provisions of securities law of Missouri shall not apply to any note, bond or other evidence of indebtedness issued by any electric power exchange transacting business in this state pursuant to this chapter or to any mortgage or deed of trust executed to secure the same. The provisions of said securities law shall not apply to the issuance of membership certificates by any electric power exchange.

395.350. No person who is authorized to take acknowledgments under the laws of this state shall be disqualified from taking acknowledgments of instruments executed in favor of the electric power exchange or to which it is a party, by reason of being an officer, director or member of such electric power exchange.

395.360. 1. Whenever any notice is required to be given under the provisions of this chapter or under the provisions of the articles of incorporation or bylaws of the electric power exchange, waiver thereof in writing, signed by the person or persons entitled to such notice, shall be deemed equivalent to such notice.

2. If a person or persons entitled to such notice of a meeting shall attend such meeting, such attendance shall constitute a waiver of notice of the meeting, except in case the attendance is for the express purpose of objecting to the transaction of any business because the meeting shall not have been lawfully called or convened.

395.370. This chapter shall be construed liberally. The enumeration of any object, purpose, power, manner, method or thing shall not be deemed to exclude like or similar objects, purposes, powers, manners, methods or things.

395.380. The antitrust laws of this state shall not be amended, expanded, diminished or abolished by this chapter.

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