

SECOND REGULAR SESSION

HOUSE BILL NO. 1876

101ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE HAFFNER.

3626H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 393.170 and 523.262, RSMo, and to enact in lieu thereof two new sections relating to eminent domain for certain utilities.

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

Section A. Sections 393.170 and 523.262, RSMo, are repealed and two new sections
2 enacted in lieu thereof, to be known as sections 393.170 and 523.262, to read as follows:

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

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

13 3. **(1) Before the commission shall issue an approval under subsection 1 of this**
14 **section for a merchant line, an entity shall provide the commission a resolution of**
15 **support passed by the county commission of each county through which the merchant**
16 **line will be built. Any electrical corporation that begins construction on a merchant line**

EXPLANATION — Matter enclosed in bold-faced brackets ~~thus~~ in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17 **after August 28, 2022, shall provide the required resolutions to the commission prior to**
18 **construction, regardless of whether the commission has previously issued its approval.**

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

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

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

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

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

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

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

21 the proposed purpose for which the condemned property shall be used at the time of making
22 the initial offer.

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

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

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

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

36 **(3) This subsection shall apply to any property or easement acquisition started**
37 **on or after August 28, 2022.**

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

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