

SECOND REGULAR SESSION

# HOUSE BILL NO. 2365

## 99TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE BERRY.

6282H.011

D. ADAM CRUMBLISS, Chief Clerk

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### AN ACT

To repeal section 386.020, RSMo, and to enact in lieu thereof one new section relating to utilities.

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

Section A. Section 386.020, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 386.020, to read as follows:

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

- 2 (1) "Alternative local exchange telecommunications company", a local exchange  
3 telecommunications company certified by the commission to provide basic or nonbasic local  
4 telecommunications service or switched exchange access service, or any combination of such  
5 services, in a specific geographic area subsequent to December 31, 1995;
- 6 (2) "Alternative operator services company", any certificated interexchange  
7 telecommunications company which receives more than forty percent of its annual Missouri  
8 intrastate telecommunications service revenues from the provision of operator services pursuant  
9 to operator services contracts with traffic aggregators;
- 10 (3) "Basic interexchange telecommunications service" includes, at a minimum, two-way  
11 switched voice service between points in different local calling scopes as determined by the  
12 commission and shall include other services as determined by the commission by rule upon  
13 periodic review and update;
- 14 (4) "Basic local telecommunications service", two-way switched voice service within  
15 a local calling scope as determined by the commission comprised of any of the following  
16 services and their recurring and nonrecurring charges:

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 (a) Multiparty, single line, including installation, touchtone dialing, and any applicable  
18 mileage or zone charges;
- 19 (b) Assistance programs for installation of, or access to, basic local telecommunications  
20 services for qualifying economically disadvantaged or disabled customers or both, including, but  
21 not limited to, lifeline services and link-up Missouri services for low-income customers or  
22 dual-party relay service for the hearing impaired and speech impaired;
- 23 (c) Access to local emergency services including, but not limited to, 911 service  
24 established by local authorities;
- 25 (d) Access to basic local operator services;
- 26 (e) Access to basic local directory assistance;
- 27 (f) Standard intercept service;
- 28 (g) Equal access to interexchange carriers consistent with rules and regulations of the  
29 Federal Communications Commission;
- 30 (h) One standard white pages directory listing.
- 31
- 32 Basic local telecommunications service does not include optional toll-free calling outside a local  
33 calling scope but within a community of interest, available for an additional monthly fee or the  
34 offering or provision of basic local telecommunications service at private shared-tenant service  
35 locations;
- 36 (5) "Cable television service", the one-way transmission to subscribers of video  
37 programming or other programming service and the subscriber interaction, if any, which is  
38 required for the selection of such video programming or other programming service;
- 39 (6) "Carrier of last resort", any telecommunications company which is obligated to offer  
40 basic local telecommunications service to all customers who request service in a geographic area  
41 defined by the commission and cannot abandon this obligation without approval from the  
42 commission;
- 43 (7) "Commission", the "Public Service Commission" hereby created;
- 44 (8) "Commissioner", one of the members of the commission;
- 45 (9) "Competitive telecommunications company", a telecommunications company which  
46 has been classified as such by the commission pursuant to section 392.245 or 392.361;
- 47 (10) "Competitive telecommunications service", a telecommunications service which  
48 has been classified as such by the commission pursuant to section 392.245 or to section 392.361,  
49 or which has become a competitive telecommunications service pursuant to section 392.370;
- 50 (11) "Corporation" includes a corporation, company, association and joint stock  
51 association or company;

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

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

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

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

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

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

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

65 (14) "Electric plant" includes all real estate, fixtures and personal property operated,  
66 controlled, owned, used or to be used for or in connection with or to facilitate the generation,  
67 transmission, distribution, sale or furnishing of electricity for light, heat or power; ~~and~~ any  
68 conduits, ducts or other devices, materials, apparatus or property for containing, holding or  
69 carrying conductors used or to be used for the transmission of electricity for light, heat or power;  
70 **and electric vehicle charging stations, except when the entity owning, operating,**  
71 **controlling, or managing those stations does not own, operate, control, or manage other**  
72 **equipment that would otherwise constitute an electric plant;**

73 (15) "Electrical corporation" includes every corporation, company, association, joint  
74 stock company or association, partnership and person, their lessees, trustees or receivers  
75 appointed by any court whatsoever, other than a railroad, light rail or street railroad corporation  
76 generating electricity solely for railroad, light rail or street railroad purposes or for the use of its  
77 tenants and not for sale to others, owning, operating, controlling or managing any electric plant  
78 except where electricity is generated or distributed by the producer solely on or through private  
79 property for railroad, light rail or street railroad purposes or for its own use or the use of its  
80 tenants and not for sale to others;

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

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

88 (18) "Gas corporation" includes every corporation, company, association, joint stock  
89 company or association, partnership and person, their lessees, trustees or receivers appointed by  
90 any court whatsoever, owning, operating, controlling or managing any gas plant operating for  
91 public use under privilege, license or franchise now or hereafter granted by the state or any  
92 political subdivision, county or municipality thereof;

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

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

104 (21) "High-cost area", a geographic area, which shall follow exchange boundaries and  
105 be no smaller than an exchange nor larger than a local calling scope, where the cost of providing  
106 basic local telecommunications service as determined by the commission, giving due regard to  
107 recovery of an appropriate share of joint and common costs as well as those costs related to  
108 carrier of last resort obligations, exceeds the rate for basic local telecommunications service  
109 found reasonable by the commission;

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

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

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

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

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

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

119 (24) "Interexchange telecommunications company", any company engaged in the  
120 provision of interexchange telecommunications service;

121 (25) "Interexchange telecommunications service", telecommunications service between  
122 points in two or more exchanges;

- 123 (26) "InterLATA", interexchange telecommunications service between points in different  
124 local access and transportation areas;
- 125 (27) "IntraLATA", interexchange telecommunications service between points within the  
126 same local access and transportation area;
- 127 (28) "Light rail" includes every rail transportation system in which one or more rail  
128 vehicles are propelled electrically by overhead catenary wire upon tracks located substantially  
129 within an urban area and are operated exclusively in the transportation of passengers and their  
130 baggage, and including all bridges, tunnels, equipment, switches, spurs, tracks, stations, used in  
131 connection with the operation of light rail;
- 132 (29) "Line" includes route;
- 133 (30) "Local access and transportation area" or "LATA", contiguous geographic area  
134 approved by the U.S. District Court for the District of Columbia in *United States v. Western*  
135 *Electric*, Civil Action No. 82-0192 that defines the permissible areas of operations for the Bell  
136 Operating companies;
- 137 (31) "Local exchange telecommunications company", any company engaged in the  
138 provision of local exchange telecommunications service. A local exchange telecommunications  
139 company shall be considered a "large local exchange telecommunications company" if it has at  
140 least one hundred thousand access lines in Missouri and a "small local exchange  
141 telecommunications company" if it has less than one hundred thousand access lines in Missouri;
- 142 (32) "Local exchange telecommunications service", telecommunications service between  
143 points within an exchange;
- 144 (33) "Long-run incremental cost", the change in total costs of the company of producing  
145 an increment of output in the long run when the company uses least cost technology, and  
146 excluding any costs that, in the long run, are not brought into existence as a direct result of the  
147 increment of output. The relevant increment of output shall be the level of output necessary to  
148 satisfy total current demand levels for the service in question, or, for new services, demand levels  
149 that can be demonstrably anticipated;
- 150 (34) "Municipality" includes a city, village or town;
- 151 (35) "Nonbasic telecommunications services" shall be all regulated telecommunications  
152 services other than basic local and exchange access telecommunications services, and shall  
153 include the services identified in paragraphs (d) and (e) of subdivision (4) of this section. Any  
154 retail telecommunications service offered for the first time after August 28, 1996, shall be  
155 classified as a nonbasic telecommunications service, including any new service which does not  
156 replace an existing service;

157 (36) "Noncompetitive telecommunications company", a telecommunications company  
158 other than a competitive telecommunications company or a transitionally competitive  
159 telecommunications company;

160 (37) "Noncompetitive telecommunications service", a telecommunications service other  
161 than a competitive or transitionally competitive telecommunications service;

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

166 (39) "Operator services contract", any agreement between a traffic aggregator and a  
167 certificated interexchange telecommunications company to provide operator services at a traffic  
168 aggregator location;

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

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

177 (42) "Private telecommunications system", a telecommunications system controlled by  
178 a person or corporation for the sole and exclusive use of such person, corporation or legal or  
179 corporate affiliate thereof;

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

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

190 (45) "Railroad corporation" includes every corporation, company, association, joint stock  
191 company or association, partnership and person, their lessees, trustees or receivers appointed by  
192 any court whatsoever, owning, holding, operating, controlling or managing any railroad or

193 railway as defined in this section, or any cars or other equipment used thereon or in connection  
194 therewith;

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

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

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

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

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

219 (51) "Street railroad" includes every railroad by whatsoever type of power operated, and  
220 all extensions and branches thereof and supplementary facilities thereto by whatsoever type of  
221 vehicle operated, for public use in the conveyance of persons or property for compensation,  
222 mainly providing local transportation service upon the streets, highways and public places in a  
223 municipality, or in and adjacent to a municipality, and including all cars, buses and other rolling  
224 stock, equipment, switches, spurs, tracks, poles, wires, conduits, cables, subways, tunnels,  
225 stations, terminals and real estate of every kind used, operated or owned in connection therewith  
226 but this term shall not include light rail as defined in this section; and the term "street railroad"  
227 when used in this chapter shall also include all motor bus and trolley bus lines and routes and  
228 similar local transportation facilities, and the rolling stock and other equipment thereof and the

229 appurtenances thereto, when operated as a part of a street railroad or trolley bus local  
230 transportation system, or in conjunction therewith or supplementary thereto, but such term shall  
231 not include a railroad constituting or used as part of a trunk line railroad system and any street  
232 railroad as defined above which shall be converted wholly to motor bus operation shall  
233 nevertheless continue to be included within the term street railroad as used herein;

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

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

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

247 (a) The rent, sale, lease, or exchange for other value received of customer premises  
248 equipment except for customer premises equipment owned by a telephone company certificated  
249 or otherwise authorized to provide telephone service prior to September 28, 1987, and provided  
250 under tariff or in inventory on January 1, 1983, which must be detariffed no later than December  
251 31, 1987, and thereafter the provision of which shall not be a telecommunications service, and  
252 except for customer premises equipment owned or provided by a telecommunications company  
253 and used for answering 911 or emergency calls;

254 (b) Answering services and paging services;

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

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

262 (e) Services provided by a private telecommunications system;

263 (f) Cable television service;

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



265 (h) Electronic publishing services;  
266 (i) Services provided pursuant to a broadcast radio or television license issued by the  
267 Federal Communications Commission; or  
268 (j) Interconnected voice over internet protocol service;  
269 (55) "Telephone cooperative", every corporation defined as a telecommunications  
270 company in this section, in which at least ninety percent of those persons and corporations  
271 subscribing to receive local telecommunications service from the corporation own at least ninety  
272 percent of the corporation's outstanding and issued capital stock and in which no subscriber owns  
273 more than two shares of the corporation's outstanding and issued capital stock;  
274 (56) "Traffic aggregator", any person, firm, partnership or corporation which furnishes  
275 a telephone for use by the public and includes, but is not limited to, telephones located in rooms,  
276 offices and similar locations in hotels, motels, hospitals, colleges, universities, airports and  
277 public or customer-owned pay telephone locations, whether or not coin operated;  
278 (57) "Transitionally competitive telecommunications company", an interexchange  
279 telecommunications company which provides any noncompetitive or transitionally competitive  
280 telecommunications service, except for an interexchange telecommunications company which  
281 provides only noncompetitive telecommunications service;  
282 (58) "Transitionally competitive telecommunications service", a telecommunications  
283 service offered by a noncompetitive or transitionally competitive telecommunications company  
284 and classified as transitionally competitive by the commission pursuant to section 392.361 or  
285 392.370;  
286 (59) "Water corporation" includes every corporation, company, association, joint stock  
287 company or association, partnership and person, their lessees, trustees, or receivers appointed by  
288 any court whatsoever, owning, operating, controlling or managing any plant or property, dam or  
289 water supply, canal, or power station, distributing or selling for distribution, or selling or  
290 supplying for gain any water;  
291 (60) "Water system" includes all reservoirs, tunnels, shafts, dams, dikes, headgates,  
292 pipes, flumes, canals, structures and appliances, and all other real estate, fixtures and personal  
293 property, owned, operated, controlled or managed in connection with or to facilitate the  
294 diversion, development, storage, supply, distribution, sale, furnishing or carriage of water for  
295 municipal, domestic or other beneficial use.

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