

FIRST REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE SUBSTITUTE FOR
SENATE BILL NO. 44

101ST GENERAL ASSEMBLY
2021

0809H.07T

AN ACT

To repeal sections 91.025, 153.030, 153.034, 204.569, 386.370, 386.800, 393.106, 393.358, 394.020, 394.120, and 394.315, RSMo, and to enact in lieu thereof sixteen new sections relating to utilities.

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

Section A. Sections 91.025, 153.030, 153.034, 204.569,
2 386.370, 386.800, 393.106, 393.358, 394.020, 394.120, and
3 394.315, RSMo, are repealed and sixteen new sections enacted in
4 lieu thereof, to be known as sections 67.309, 91.025, 153.030,
5 153.034, 204.569, 386.370, 386.800, 393.106, 393.358, 393.1500,
6 393.1503, 393.1506, 393.1509, 394.020, 394.120, and 394.315, to
7 read as follows:

67.309. 1. **No political subdivision of this state**
2 **shall adopt an ordinance, resolution, regulation, code, or**
3 **policy that prohibits, or has the effect of prohibiting, the**
4 **connection or reconnection of a utility service based upon**
5 **the type or source of energy to be delivered to an**
6 **individual customer. Nothing in this section shall limit**
7 **the ability of a political subdivision to choose utility**
8 **services for properties owned by such political subdivision**
9 **or limit a political subdivision's ability to ensure public**
10 **safety.**

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

11 **2. For purposes of this section, utility services**
12 **shall include natural gas, propane gas, electricity, and any**
13 **other form of energy provided to an end user customer.**

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

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

9 (2) "Permanent service", electrical service provided
10 through facilities which have been permanently installed on
11 a structure and which are designed to provide electric
12 service for the structure's anticipated needs for the
13 indefinite future, as contrasted with facilities installed
14 temporarily to provide electrical service during
15 construction. Service provided temporarily shall be at the
16 risk of the electrical supplier and shall not be
17 determinative of the rights of the provider or recipient of
18 permanent service;

19 (3) "Structure" or "structures", an agricultural,
20 residential, commercial, industrial or other building or a
21 mechanical installation, machinery or apparatus at which
22 retail electric energy is being delivered through a metering
23 device which is located on or adjacent to the structure and
24 connected to the lines of an electrical corporation, rural
25 electric cooperative, municipally owned or operated electric
26 power system, or joint municipal utility commission. Such
27 terms shall include any contiguous or adjacent additions to
28 or expansions of a particular structure. Nothing in this
29 section shall be construed to confer any right on an

30 electric supplier to serve new structures on a particular
31 tract of land because it was serving an existing structure
32 on that tract.

33 2. Once a municipally owned or operated electrical
34 system, or its predecessor in interest, lawfully commences
35 supplying retail electric energy to a structure through
36 permanent service facilities, it shall have the right to
37 continue serving such structure, and other suppliers of
38 electrical energy shall not have the right to provide
39 service to the structure except as might be otherwise
40 permitted in the context of municipal annexation, pursuant
41 to section 386.800 or pursuant to a territorial agreement
42 approved under section 394.312. The public service
43 commission, upon application made by a customer, may order a
44 change of suppliers on the basis that it is in the public
45 interest for a reason other than a rate differential, and
46 the commission is hereby given jurisdiction over municipally
47 owned or operated electric systems to accomplish the purpose
48 of this section. The commission's jurisdiction under this
49 section is limited to public interest determinations and
50 excludes questions as to the lawfulness of the provision of
51 service, such questions being reserved to courts of
52 competent jurisdiction. Except as provided in this section,
53 nothing in this section shall be construed as otherwise
54 conferring upon the commission jurisdiction over the
55 service, rates, financing, accounting or management of any
56 such municipally owned or operated electrical system, and
57 nothing in this section, section 393.106, and section
58 394.315 shall affect the rights, privileges or duties of any
59 municipality to form or operate municipally owned or
60 operated electrical systems. Nothing in this section shall
61 be construed to make lawful any provision of service which

62 was unlawful prior to July 11, 1991. Nothing in this
63 section shall be construed to make unlawful the continued
64 lawful provision of service to any structure which may have
65 had a different supplier in the past, if such a change in
66 supplier was lawful at the time it occurred.

67 **3. Notwithstanding the provisions of this section and**
68 **sections 393.106, 394.080, and 394.315 to the contrary, in**
69 **the event that a retail electric supplier is providing**
70 **service to a structure located within a city, town, or**
71 **village that has ceased to be a rural area, and such**
72 **structure is demolished and replaced by a new structure,**
73 **such retail electric service supplier may provide permanent**
74 **service to the new structure upon the request of the owner**
75 **of the new structure.**

153.030. 1. All bridges over streams dividing this
2 state from any other state owned, used, leased or otherwise
3 controlled by any person, corporation, railroad company or
4 joint stock company, and all bridges across or over
5 navigable streams within this state, where the charge is
6 made for crossing the same, which are now constructed, which
7 are in the course of construction, or which shall hereafter
8 be constructed, and all property, real and tangible
9 personal, owned, used, leased or otherwise controlled by
10 telegraph, telephone, electric power and light companies,
11 electric transmission lines, pipeline companies and express
12 companies shall be subject to taxation for state, county,
13 municipal and other local purposes to the same extent as the
14 property of private persons.

15 2. And taxes levied thereon shall be levied and
16 collected in the manner as is now or may hereafter be
17 provided by law for the taxation of railroad property in
18 this state, and county commissions, county boards of

19 equalization and the state tax commission are hereby
20 required to perform the same duties and are given the same
21 powers, including punitive powers, in assessing, equalizing
22 and adjusting the taxes on the property set forth in this
23 section as the county commissions and boards of equalization
24 and state tax commission have or may hereafter be empowered
25 with, in assessing, equalizing, and adjusting the taxes on
26 railroad property; and an authorized officer of any such
27 bridge, telegraph, telephone, electric power and light
28 companies, electric transmission lines, pipeline companies,
29 or express company or the owner of any such toll bridge, is
30 hereby required to render reports of the property of such
31 bridge, telegraph, telephone, electric power and light
32 companies, electric transmission lines, pipeline companies,
33 or express companies in like manner as the authorized
34 officer of the railroad company is now or may hereafter be
35 required to render for the taxation of railroad property.

36 3. On or before the fifteenth day of April in the year
37 1946 and each year thereafter an authorized officer of each
38 such company shall furnish the state tax commission and
39 county clerks a report, duly subscribed and sworn to by such
40 authorized officer, which is like in nature and purpose to
41 the reports required of railroads under chapter 151 showing
42 the full amount of all real and tangible personal property
43 owned, used, leased or otherwise controlled by each such
44 company on January first of the year in which the report is
45 due.

46 4. If any telephone company assessed pursuant to
47 chapter 153 has a microwave relay station or stations in a
48 county in which it has no wire mileage but has wire mileage
49 in another county, then, for purposes of apportioning the
50 assessed value of the distributable property of such

51 companies, the straight line distance between such microwave
52 relay stations shall constitute miles of wire. In the event
53 that any public utility company assessed pursuant to this
54 chapter has no distributable property which physically
55 traverses the counties in which it operates, then the
56 assessed value of the distributable property of such company
57 shall be apportioned to the physical location of the
58 distributable property.

59 5. (1) Notwithstanding any provision of law to the
60 contrary, beginning January 1, 2019, a telephone company
61 shall make a one-time election within the tax year to be
62 assessed:

63 (a) Using the methodology for property tax purposes as
64 provided under this section; or

65 (b) Using the methodology for property tax purposes as
66 provided under this section for property consisting of land
67 and buildings and be assessed for all other property
68 exclusively using the methodology utilized under section
69 137.122.

70 If a telephone company begins operations, including a merger
71 of multiple telephone companies, after August 28, 2018, it
72 shall make its one-time election to be assessed using the
73 methodology for property tax purposes as described under
74 paragraph (b) of subdivision (1) of this subsection within
75 the year in which the telephone company begins its
76 operations. A telephone company that fails to make a timely
77 election shall be deemed to have elected to be assessed
78 using the methodology for property tax purposes as provided
79 under subsections 1 to 4 of this section.

80 (2) The provisions of this subsection shall not be
81 construed to change the original assessment jurisdiction of
82 the state tax commission.

83 (3) Nothing in subdivision (1) of this subsection
84 shall be construed as applying to any other utility.

85 (4) (a) The provisions of this subdivision shall
86 ensure that school districts may avoid any fiscal impact as
87 a result of a telephone company being assessed under the
88 provisions of paragraph (b) of subdivision (1) of this
89 subsection. If a school district's current operating levy
90 is below the greater of its most recent voter-approved tax
91 rate or the most recent voter-approved tax rate as adjusted
92 under subdivision (2) of subsection 5 of section 137.073, it
93 shall comply with section 137.073.

94 (b) Beginning January 1, 2019, any school district
95 currently operating at a tax rate equal to the greater of
96 the most recent voter-approved tax rate or the most recent
97 voter-approved tax rate as adjusted under subdivision (2) of
98 subsection 5 of section 137.073 that receives less tax
99 revenue from a specific telephone company under this
100 subsection, on or before January thirty-first of the year
101 following the tax year in which the school district received
102 less revenue from a specific telephone company, may by
103 resolution of the school board impose a fee, as determined
104 under this subsection, in order to obtain such revenue. The
105 resolution shall include all facts that support the
106 imposition of the fee. If the school district receives
107 voter approval to raise its tax rate, the district shall no
108 longer impose the fee authorized in this paragraph.

109 (c) Any fee imposed under paragraph (b) of this
110 subdivision shall be determined by taking the difference
111 between the tax revenue the telephone company paid in the

112 tax year in question and the tax revenue the telephone
113 company would have paid in such year had it not made an
114 election under subdivision (1) of this subsection, which
115 shall be calculated by taking the telephone company
116 valuations in the tax year in question, as determined by the
117 state tax commission under paragraph (d) of this
118 subdivision, and applying such valuations to the
119 apportionment process in subsection 2 of section 151.150.
120 The school district shall issue a billing, as provided in
121 this subdivision, to any such telephone company. A
122 telephone company shall have forty-five days after receipt
123 of a billing to remit its payment of its portion of the fees
124 to the school district. Notwithstanding any other provision
125 of law, the issuance or receipt of such fee shall not be
126 used:

- 127 a. In determining the amount of state aid that a
128 school district receives under section 163.031;
- 129 b. In determining the amount that may be collected
130 under a property tax levy by such district; or
- 131 c. For any other purpose.

132 For the purposes of accounting, a telephone company that
133 issues a payment to a school district under this subsection
134 shall treat such payment as a tax.

135 (d) When establishing the valuation of a telephone
136 company assessed under paragraph (b) of subdivision (1) of
137 this subsection, the state tax commission shall also
138 determine the difference between the assessed value of a
139 telephone company if:

- 140 a. Assessed under paragraph (b) of subdivision (1) of
141 this subsection; and

142 b. Assessed exclusively under subsections 1 to 4 of
143 this section.

144 The state tax commission shall then apportion such amount to
145 each county and provide such information to any school
146 district making a request for such information.

147 (e) This subsection shall expire when no school
148 district is eligible for a fee.

149 6. (1) If any public utility company assessed
150 pursuant to this chapter has ownership of any real or
151 personal property associated with a project which uses wind
152 energy directly to generate electricity, such wind energy
153 project property shall be valued and taxed by any local
154 authorities having jurisdiction under the provisions of
155 chapter 137 and other relevant provisions of the law.

156 (2) Notwithstanding any provision of law to the
157 contrary, beginning January 1, 2020, for any public utility
158 company assessed pursuant to this chapter which has a wind
159 energy project, such wind energy project shall be assessed
160 using the methodology for real and personal property as
161 provided in this subsection:

162 (a) Any wind energy property of such company shall be
163 assessed upon the county assessor's local tax rolls;

164 (b) Any property consisting of land and buildings
165 related to the wind energy project shall be assessed under
166 chapter 137; and

167 (c) All other business or personal property related to
168 the wind energy project shall be assessed using the
169 methodology provided under section 137.122.

170 **7. (1) If any public utility company assessed**
171 **pursuant to this chapter has ownership of any real or**
172 **personal property associated with a generation project which**

173 was originally constructed utilizing financing authorized
174 pursuant to chapter 100 for construction, upon the transfer
175 of ownership of such property to the public utility company
176 such property shall be valued and taxed by any local
177 authorities having jurisdiction under the provisions of
178 chapter 137 and other relevant provisions of law.

179 (2) Notwithstanding any provision of law to the
180 contrary, beginning January 1, 2022, for any public utility
181 company assessed pursuant to this chapter which has
182 ownership of any real or personal property associated with a
183 generation project which was originally constructed
184 utilizing financing authorized pursuant to chapter 100 for
185 construction, upon the transfer of ownership of such
186 property to the public utility company such property shall
187 be assessed as follows:

188 (a) Any property associated with a generation project
189 which was originally constructed utilizing financing
190 authorized pursuant to chapter 100 for construction shall be
191 assessed upon the county assessor's local tax rolls. The
192 assessor shall rely on the public utility company for cost
193 information of the generation portion of the property as
194 found in the public utility company's Federal Energy
195 Regulatory Commission Financial Report Form Number One at
196 the time of transfer of ownership and depreciate the costs
197 provided in a manner similar to other commercial and
198 industrial property;

199 (b) Any property consisting of land and buildings
200 related to the generation property associated with a
201 generation project which was originally constructed
202 utilizing financing pursuant to chapter 100 for construction
203 shall be assessed under chapter 137; and

204 **(c) All other business or personal property related to**
205 **a generation project which was originally constructed**
206 **utilizing financing pursuant to chapter 100 for construction**
207 **shall be assessed using the methodology provided under**
208 **section 137.122.**

153.034. 1. The term "distributable property" of an
2 electric company shall include all the real or tangible
3 personal property which is used directly in the generation
4 and distribution of electric power, but not property used as
5 a collateral facility nor property held for purposes other
6 than generation and distribution of electricity. Such
7 distributable property includes, but is not limited to:

8 (1) Boiler plant equipment, turbogenerator units and
9 generators;

10 (2) Station equipment;

11 (3) Towers, fixtures, poles, conductors, conduit
12 transformers, services and meters;

13 (4) Substation equipment and fences;

14 (5) Rights-of-way;

15 (6) Reactor, reactor plant equipment, and cooling
16 towers;

17 (7) Communication equipment used for control of
18 generation and distribution of power;

19 (8) Land associated with such distributable property.

20 2. The term "local property" of an electric company
21 shall include all real and tangible personal property owned,
22 used, leased or otherwise controlled by the electric company
23 not used directly in the generation and distribution of
24 power and not defined in subsection 1 of this section as
25 distributable property. Such local property includes, but
26 is not limited to:

27 (1) Motor vehicles;

- 28 (2) Construction work in progress;
- 29 (3) Materials and supplies;
- 30 (4) Office furniture, office equipment, and office
31 fixtures;
- 32 (5) Coal piles and nuclear fuel;
- 33 (6) Land held for future use;
- 34 (7) Workshops, warehouses, office buildings and
35 generating plant structures;
- 36 (8) Communication equipment not used for control of
37 generation and distribution of power;
- 38 (9) Roads, railroads, and bridges;
- 39 (10) Reservoirs, dams, and waterways;
- 40 (11) Land associated with other locally assessed
41 property and all generating plant land.
- 42 3. (1) Any real or tangible personal property
43 associated with a project which uses wind energy directly to
44 generate electricity shall be valued and taxed by local
45 authorities having jurisdiction under the provisions of
46 chapter 137 and any other relevant provisions of law. The
47 method of taxation prescribed in subsection 2 of section
48 153.030 and subsection 1 of this section shall not apply to
49 such property.
- 50 (2) The real or tangible personal property referenced
51 in subdivision (1) of this subsection shall include all
52 equipment whose sole purpose is to support the integration
53 of a wind generation asset into an existing system.
54 Examples of such property may include, but are not limited
55 to, wind chargers, windmills, wind turbines, wind towers,
56 and associated electrical equipment such as inverters, pad
57 mount transformers, power lines, storage equipment directly
58 associated with wind generation assets, and substations.

59 **4. For any real or tangible personal property**
60 **associated with a generation project which was originally**
61 **constructed utilizing financing authorized under chapter 100**
62 **for construction, upon the transfer of ownership of such**
63 **property to a public utility, such property shall be valued**
64 **and taxed by local authorities having jurisdiction under the**
65 **provisions of chapter 137 and any other relevant provisions**
66 **of law. The method of taxation prescribed in subsection 2**
67 **of section 153.030 and subsection 1 of this section shall**
68 **not apply to such property.**

 204.569. When an unincorporated sewer subdistrict of a
2 common sewer district has been formed pursuant to sections
3 204.565 to 204.573, the board of trustees of the common
4 sewer district shall have the same powers with regard to the
5 subdistrict as for the common sewer district as a whole,
6 plus the following additional powers:

7 (1) To enter into agreements to accept, take title to,
8 or otherwise acquire, and to operate such sewers, sewer
9 systems, treatment and disposal facilities, and other
10 property, both real and personal, of the political
11 subdivisions included in the subdistrict as the board
12 determines to be in the interest of the common sewer
13 district to acquire or operate, according to such terms and
14 conditions as the board finds reasonable, provided that such
15 authority shall be in addition to the powers of the board of
16 trustees pursuant to section 204.340;

17 (2) To provide for the construction, extension,
18 improvement, and operation of such sewers, sewer systems,
19 and treatment and disposal facilities, as the board
20 determines necessary for the preservation of public health
21 and maintenance of sanitary conditions in the subdistrict;

22 (3) For the purpose of meeting the costs of activities
23 undertaken pursuant to the authority granted in this
24 section, to issue bonds in anticipation of revenues of the
25 subdistrict in the same manner as set out in sections
26 204.360 to 204.450, for other bonds of the common sewer
27 district. Issuance of such bonds for the subdistrict shall
28 require the assent only of four-sevenths of the voters of
29 the subdistrict voting on the question[, and] **except that,**
30 **as an alternative to such a vote, if the subdistrict is a**
31 **part of a common sewer district located in whole or in part**
32 **in any county of the first classification without a charter**
33 **form of government adjacent to a county of the first**
34 **classification with a charter form of government and a**
35 **population of at least six hundred thousand and not more**
36 **than seven hundred fifty thousand, bonds may be issued for**
37 **such subdistrict if the question receives the written assent**
38 **of three-quarters of the customers of the subdistrict in a**
39 **manner consistent with section 204.370, where "customer", as**
40 **used in this subdivision, means any political subdivision**
41 **within the subdistrict that has a service or user agreement**
42 **with the common sewer district.** The principal and interest
43 of such bonds shall be payable only from the revenues of the
44 subdistrict and not from any revenues of the common sewer
45 district as a whole;

46 (4) To charge the costs of the common sewer district
47 for operation and maintenance attributable to the
48 subdistrict, plus a proportionate share of the common sewer
49 district's costs of administration to revenues of the
50 subdistrict and to consider such costs in determining
51 reasonable charges to impose within the subdistrict under
52 section 204.440;

53 (5) With prior concurrence of the subdistrict's
54 advisory board, to provide for the treatment and disposal of
55 sewage from the subdistrict in or by means of facilities of
56 the common sewer district not located within the
57 subdistrict, in which case the board of trustees shall also
58 have authority to charge a proportionate share of the costs
59 of the common sewer district for operation and maintenance
60 to revenues of the subdistrict and to consider such costs in
61 determining reasonable charges to impose within the
62 subdistrict under section 204.440.

 386.370. 1. The commission shall, prior to the
2 beginning of each fiscal year beginning with the fiscal year
3 commencing on July 1, 1947, make an estimate of the expenses
4 to be incurred by it during such fiscal year reasonably
5 attributable to the regulation of public utilities as
6 provided in chapters 386, 392 and 393 and shall also
7 separately estimate the amount of such expenses directly
8 attributable to such regulation of each of the following
9 groups of public utilities: Electrical corporations, gas
10 corporations, water corporations, heating companies and
11 telephone corporations, telegraph corporations, sewer
12 corporations, and any other public utility as defined in
13 section 386.020, as well as the amount of such expenses not
14 directly attributable to any such group. For purposes of
15 this section, water corporations and sewer corporations will
16 be combined and considered one group of public utilities.

17 2. The commission shall allocate to each such group of
18 public utilities the estimated expenses directly
19 attributable to the regulation of such group and an amount
20 equal to such proportion of the estimated expenses not
21 directly attributable to any group as the gross intrastate
22 operating revenues of such group during the preceding

23 calendar year bears to the total gross intrastate operating
24 revenues of all public utilities subject to the jurisdiction
25 of the commission, as aforesaid, during such calendar year.
26 The commission shall then assess the amount so allocated to
27 each group of public utilities, subject to reduction as
28 herein provided, to the public utilities in such group in
29 proportion to their respective gross intrastate operating
30 revenues during the preceding calendar year, except that the
31 total amount so assessed to all such public utilities shall
32 not exceed [one-fourth] **three hundred fifteen thousandths** of
33 one percent of the total gross intrastate operating revenues
34 of all utilities subject to the jurisdiction of the
35 commission.

36 3. The commission shall render a statement of such
37 assessment to each such public utility on or before July
38 first and the amount so assessed to each such public utility
39 shall be paid by it to the director of revenue in full on or
40 before July fifteenth next following the rendition of such
41 statement, except that any such public utility may at its
42 election pay such assessment in four equal installments not
43 later than the following dates next following the rendition
44 of said statement, to wit: July fifteenth, October
45 fifteenth, January fifteenth and April fifteenth. The
46 director of revenue shall remit such payments to the state
47 treasurer.

48 4. The state treasurer shall credit such payments to a
49 special fund, which is hereby created, to be known as "The
50 Public Service Commission Fund", which fund, or its
51 successor fund created pursuant to section 33.571, shall be
52 devoted solely to the payment of expenditures actually
53 incurred by the commission and attributable to the
54 regulation of such public utilities subject to the

55 jurisdiction of the commission, as aforesaid. Any amount
56 remaining in such special fund or its successor fund at the
57 end of any fiscal year shall not revert to the general
58 revenue fund, but shall be applicable by appropriation of
59 the general assembly to the payment of such expenditures of
60 the commission in the succeeding fiscal year and shall be
61 applied by the commission to the reduction of the amount to
62 be assessed to such public utilities in such succeeding
63 fiscal year, such reduction to be allocated to each group of
64 public utilities in proportion to the respective gross
65 intrastate operating revenues of the respective groups
66 during the preceding calendar year.

67 5. In order to enable the commission to make the
68 allocations and assessments herein provided for, each public
69 utility subject to the jurisdiction of the commission as
70 aforesaid shall file with the commission, within ten days
71 after August 28, 1996, and thereafter on or before March
72 thirty-first of each year, a statement under oath showing
73 its gross intrastate operating revenues for the preceding
74 calendar year, and if any public utility shall fail to file
75 such statement within the time aforesaid the commission
76 shall estimate such revenue which estimate shall be binding
77 on such public utility for the purpose of this section.

386.800. 1. No municipally owned electric utility may
2 provide electric energy at retail to any structure located
3 outside the municipality's corporate boundaries after July
4 11, 1991, unless:

5 (1) The structure was lawfully receiving permanent
6 service from the municipally owned electric utility prior to
7 July 11, 1991; [or]

8 (2) The service is provided pursuant to an approved
9 territorial agreement under section 394.312;

10 (3) The service is provided pursuant to lawful
11 municipal annexation and subject to the provisions of this
12 section; or

13 (4) The structure is located in an area which was
14 previously served by an electrical corporation regulated
15 under chapter 386, and chapter 393, and the electrical
16 corporation's authorized service territory was contiguous to
17 or inclusive of the municipality's previous corporate
18 boundaries, and the electrical corporation's ownership or
19 operating rights within the area were acquired in total by
20 the municipally owned electrical system prior to July 11,
21 1991. In the event that a municipally owned electric
22 utility in a city with a population of more than one hundred
23 twenty-five thousand located in a county of the first class
24 not having a charter form of government and not adjacent to
25 any other county of the first class desires to serve
26 customers beyond the authorized service territory in an area
27 which was previously served by an electrical corporation
28 regulated under the provisions of chapter 386, and chapter
29 393, as provided in this subdivision, **in the absence of an**
30 **approved territorial agreement under section 394.312**, the
31 municipally owned utility shall apply to the public service
32 commission for an order assigning nonexclusive service
33 territories **and concurrently shall provide written notice of**
34 **the application to other electric service suppliers with**
35 **electric facilities located in or within one mile outside of**
36 **the boundaries of the proposed expanded service territory.**
37 The proposed service area shall be contiguous to the
38 authorized service territory which was previously served by
39 an electrical corporation regulated under the provisions of
40 chapter 386, and chapter 393, as a condition precedent to
41 the granting of the application. The commission shall have

42 one hundred twenty days from the date of application to
43 grant or deny the requested order. The commission, **after a**
44 **hearing**, may grant the order upon a finding that granting of
45 the applicant's request is not detrimental to the public
46 interest. In granting the applicant's request the
47 commission shall give due regard to territories previously
48 granted to **or served by** other electric **service** suppliers **and**
49 **the wasteful duplication of electric service facilities.**

50 2. Any municipally owned electric utility may extend,
51 pursuant to lawful annexation, its **electric** service
52 territory to include [any structure located within a newly
53 annexed area which has not received permanent service from
54 another supplier within ninety days prior to the effective
55 date of the annexation] **areas where another electric**
56 **supplier currently is not providing permanent service to a**
57 **structure. If a rural electric cooperative has existing**
58 **electric service facilities with adequate and necessary**
59 **service capability located in or within one mile outside the**
60 **boundaries of the area proposed to be annexed, a majority of**
61 **the existing developers, landowners, or prospective electric**
62 **customers in the area proposed to be annexed may, anytime**
63 **within forty-five days prior to the effective date of the**
64 **annexation, submit a written request to the governing body**
65 **of the annexing municipality to invoke mandatory good faith**
66 **negotiations under section 394.312 to determine which**
67 **electric service supplier is best suited to serve all or**
68 **portions of the newly annexed area. In such negotiations**
69 **the following factors shall be considered, at a minimum:**

70 (1) **The preference of landowners and prospective**
71 **electric customers;**

72 (2) **The rates, terms, and conditions of service of the**
73 **electric service suppliers;**

- 74 (3) The economic impact on the electric service
75 suppliers;
- 76 (4) Each electric service supplier's operational
77 ability to serve all or portions of the annexed area within
78 three years of the date the annexation becomes effective;
- 79 (5) Avoiding the wasteful duplication of electric
80 facilities;
- 81 (6) Minimizing unnecessary encumbrances on the
82 property and landscape within the area to be annexed; and
- 83 (7) Preventing the waste of materials and natural
84 resources.

85 If the municipally owned electric utility and rural electric
86 cooperative are unable to negotiate a territorial agreement
87 pursuant to section 394.312 within forty-five days, then
88 they may submit proposals to those submitting the original
89 written request, whose preference shall control, section
90 394.080 to the contrary notwithstanding, and the governing
91 body of the annexing municipality shall not reject the
92 petition requesting annexation based on such preference.
93 This subsection shall not apply to municipally-owned
94 property in any newly annexed area.

95 3. In the event an electrical corporation rather than
96 a municipally owned electric utility lawfully is providing
97 electric service in the municipality, all the provisions of
98 subsection 2 shall apply equally as if the electrical
99 corporation were a municipally owned electric utility,
100 except that if the electrical corporation and the rural
101 electric cooperative are unable to negotiate a territorial
102 agreement pursuant to section 394.312 within forty-five
103 days, then either electric supplier may file an application
104 with the commission for an order determining which electric

105 supplier should serve, in whole or in part, the area to be
106 annexed. The application shall be made pursuant to the
107 rules and regulations of the commission governing
108 applications for certificates of public convenience and
109 necessity. The commission after the opportunity for hearing
110 shall make its determination after consideration of the
111 factors set forth in subdivisions (1) through (7) of
112 subsection 2 of this section, and section 394.080 to the
113 contrary notwithstanding, may grant its order upon a finding
114 that granting of the applicant's request is not detrimental
115 to the public interest. The commission shall issue its
116 decision by report and order no later than one hundred
117 twenty days from the date of the application unless
118 otherwise ordered by the commission for good cause shown.
119 Review of such commission decisions shall be governed by
120 sections 386.500 to 386.550. If the applicant is a rural
121 electric cooperative, the commission shall charge to the
122 rural electric cooperative the appropriate fees as set forth
123 in subsection 9 of this section.

124 [3.] 4. When a municipally owned electric utility
125 desires to extend its service territory to include any
126 structure located within a newly annexed area which has
127 received permanent service from another **electric service**
128 supplier within ninety days prior to the effective date of
129 the annexation, it shall:

130 (1) Notify by publication in a newspaper of general
131 circulation the record owner of said structure, and notify
132 in writing any affected electric **service** supplier and the
133 public service commission, within sixty days after the
134 effective date of the annexation its desire to extend its
135 service territory to include said structure; and

136 (2) Within six months after the effective date of the
137 annexation receive the approval of the municipality's
138 governing body to begin negotiations pursuant to section
139 394.312 with [any] **the** affected electric **service** supplier.

140 [4.] **5.** Upon receiving approval from the
141 municipality's governing body pursuant to subsection 3 of
142 this section, the municipally owned electric utility and the
143 affected electric **service** supplier shall meet and negotiate
144 in good faith the terms of the territorial agreement and any
145 transfers or acquisitions, including, as an alternative,
146 granting the affected electric **service** supplier a franchise
147 or authority to continue providing service in the annexed
148 area. In the event that the affected electric **service**
149 supplier does not provide wholesale electric power to the
150 municipality, if the affected electric **service** supplier so
151 desires, the parties [shall] **may** also negotiate, consistent
152 with applicable law, regulations and existing power supply
153 agreements, for power contracts which would provide for the
154 purchase of power by the municipality from the affected
155 electric **service** supplier for an amount of power equivalent
156 to the loss of any sales to customers receiving permanent
157 service at structures within the annexed areas which are
158 being sought by the municipally owned electric utility. The
159 parties shall have no more than one hundred eighty days from
160 the date of receiving approval from the municipality's
161 governing body within which to conclude their negotiations
162 and file their territorial agreement with the commission for
163 approval under the provisions of section 394.312. The time
164 period for negotiations allowed under this subsection may be
165 extended for a period not to exceed one hundred eighty days
166 by a mutual agreement of the parties and a written request
167 with the public service commission.

168 [5.] 6. For purposes of this section, the term "fair
169 and reasonable compensation" shall mean the following:

170 (1) The present-day reproduction cost, new, of the
171 properties and facilities serving the annexed areas, less
172 depreciation computed on a straight-line basis; and

173 (2) An amount equal to the reasonable and prudent cost
174 of detaching the facilities in the annexed areas and the
175 reasonable and prudent cost of constructing any necessary
176 facilities to reintegrate the system of the affected
177 electric **service** supplier outside the annexed area after
178 detaching the portion to be transferred to the municipally
179 owned electric utility; and

180 (3) [~~Four~~] **Two** hundred percent of gross revenues less
181 gross receipts taxes received by the affected electric
182 **service** supplier from the twelve-month period preceding the
183 approval of the municipality's governing body under the
184 provisions of subdivision (2) of subsection [3] **4** of this
185 section, normalized to produce a representative usage from
186 customers at the subject structures in the annexed area; and

187 (4) Any federal, state and local taxes which may be
188 incurred as a result of the transaction, including the
189 recapture of any deduction or credit; and

190 (5) Any other costs reasonably incurred by the
191 affected electric supplier in connection with the
192 transaction.

193 [6.] 7. In the event the parties are unable to reach
194 an agreement under subsection [4] **5** of this section, within
195 sixty days after the expiration of the time specified for
196 negotiations, the municipally owned electric utility **or the**
197 **affected electric service supplier** may apply to the
198 commission for an order assigning exclusive service
199 territories within the annexed area and a determination of

200 the fair and reasonable compensation amount to be paid to
201 the affected electric **service** supplier under subsection [5]
202 **6** of this section. Applications shall be made and notice of
203 such filing shall be given to all affected parties pursuant
204 to the rules and regulations of the commission governing
205 applications for certificates of public convenience and
206 necessity. Unless otherwise ordered by the commission for
207 good cause shown, the commission shall rule on such
208 applications not later than one hundred twenty days after
209 the application is properly filed with the secretary of the
210 commission. The commission shall hold evidentiary hearings
211 to assign service territory between **the** affected electric
212 **service** suppliers inside the annexed area and to determine
213 the amount of compensation due any affected electric **service**
214 supplier for the transfer of plant, facilities or associated
215 lost revenues between electric **service** suppliers in the
216 annexed area. The commission shall make such determinations
217 based on findings of what best serves the public interest
218 and shall issue its decision by report and order. Review of
219 such commission decisions shall be governed by sections
220 386.500 to 386.550. The payment of compensation and
221 transfer of title and operation of the facilities shall
222 occur within ninety days after the order and any appeal
223 therefrom becomes final unless the order provides otherwise.

224 [7.] **8.** In reaching its decision under subsection [6]
225 **7** of this section, the commission shall consider the
226 following factors:

227 (1) Whether the acquisition or transfers sought by the
228 municipally owned electric utility within the annexed area
229 from the affected electric **service** supplier are, in total,
230 in the public interest, including **the preference of the**
231 **owner of any affected structure**, consideration of rate

232 disparities between the competing electric **service**
233 suppliers, and issues of unjust rate discrimination among
234 customers of a single electric **service** supplier if the rates
235 to be charged in the annexed areas are lower than those
236 charged to other system customers; and

237 (2) The fair and reasonable compensation to be paid by
238 the municipally owned electric utility, to the affected
239 electric **service** supplier with existing system operations
240 within the annexed area, for any proposed acquisitions or
241 transfers; and

242 (3) Any effect on system operation, including, but not
243 limited to, loss of load and loss of revenue; and

244 (4) Any other issues upon which the municipally owned
245 electric utility and the affected electric **service** supplier
246 might otherwise agree, including, but not limited to, the
247 valuation formulas and factors contained in subsections [4,]
248 5, 6, and [6] 7, of this section, even if the parties could
249 not voluntarily reach an agreement thereon under those
250 subsections.

251 [8.] 9. The commission is hereby given all necessary
252 jurisdiction over municipally owned electric utilities and
253 rural electric cooperatives to carry out the purposes of
254 this section consistent with other applicable law; provided,
255 however, the commission shall not have jurisdiction to
256 compel the transfer of customers or structures with a
257 connected load greater than one thousand kilowatts. The
258 commission shall by rule set appropriate fees to be charged
259 on a case-by-case basis to municipally owned electric
260 utilities and rural electric cooperatives to cover all
261 necessary costs incurred by the commission in carrying out
262 its duties under this section. **Nothing in this section**
263 **shall be construed as otherwise conferring upon the public**

264 service commission jurisdiction over the service, rates,
265 financing, accounting, or management of any rural electric
266 cooperative or municipally-owned electric utility, except as
267 provided in this section.

268 10. Notwithstanding sections 394.020 and 394.080 to
269 the contrary, a rural electric cooperative may provide
270 electric service within the corporate boundaries of a
271 municipality if such service is provided:

272 (1) Pursuant to subsections 2 through 9 of this
273 section; and

274 (2) Such service is conditioned upon the execution of
275 the appropriate territorial and municipal franchise
276 agreements, which may include a nondiscriminatory
277 requirement, consistent with other applicable law, that the
278 rural electric cooperative collect and remit a sales tax
279 based on the amount of electricity sold by the rural
280 electric cooperative within the municipality.

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

3 (1) "Permanent service", electrical service provided
4 through facilities which have been permanently installed on
5 a structure and which are designed to provide electric
6 service for the structure's anticipated needs for the
7 indefinite future, as contrasted with facilities installed
8 temporarily to provide electrical service during
9 construction. Service provided temporarily shall be at the
10 risk of the electrical supplier and shall not be
11 determinative of the rights of the provider or recipient of
12 permanent service;

13 (2) "Structure" or "structures", an agricultural,
14 residential, commercial, industrial or other building or a
15 mechanical installation, machinery or apparatus at which

16 retail electric energy is being delivered through a metering
17 device which is located on or adjacent to the structure and
18 connected to the lines of an electrical supplier. Such
19 terms shall include any contiguous or adjacent additions to
20 or expansions of a particular structure. Nothing in this
21 section shall be construed to confer any right on an
22 electric supplier to serve new structures on a particular
23 tract of land because it was serving an existing structure
24 on that tract.

25 2. Once an electrical corporation or joint municipal
26 utility commission, or its predecessor in interest, lawfully
27 commences supplying retail electric energy to a structure
28 through permanent service facilities, it shall have the
29 right to continue serving such structure, and other
30 suppliers of electrical energy shall not have the right to
31 provide service to the structure except as might be
32 otherwise permitted in the context of municipal annexation,
33 pursuant to section 386.800 and section 394.080, or pursuant
34 to a territorial agreement approved under section 394.312.
35 The public service commission, upon application made by an
36 affected party, may order a change of suppliers on the basis
37 that it is in the public interest for a reason other than a
38 rate differential. The commission's jurisdiction under this
39 section is limited to public interest determinations and
40 excludes questions as to the lawfulness of the provision of
41 service, such questions being reserved to courts of
42 competent jurisdiction. Except as provided in this section,
43 nothing contained herein shall affect the rights, privileges
44 or duties of existing corporations pursuant to this
45 chapter. Nothing in this section shall be construed to make
46 lawful any provision of service which was unlawful prior to
47 July 11, 1991. Nothing in this section shall be construed

48 to make unlawful the continued lawful provision of service
49 to any structure which may have had a different supplier in
50 the past, if such a change in supplier was lawful at the
51 time it occurred. However, those customers who had
52 cancelled service with their previous supplier or had
53 requested cancellation by May 1, 1991, shall be eligible to
54 change suppliers as per previous procedures. No customer
55 shall be allowed to change electric suppliers by
56 disconnecting service between May 1, 1991, and July 11, 1991.

57 **3. Notwithstanding the provisions of this section and**
58 **sections 91.025, 394.080, and 394.315 to the contrary, in**
59 **the event that a retail electric supplier is providing**
60 **service to a structure located within a city, town, or**
61 **village that has ceased to be a rural area, and such**
62 **structure is demolished and replaced by a new structure,**
63 **such retail electric service supplier may provide permanent**
64 **service to the new structure upon the request of the owner**
65 **of the new structure.**

393.358. 1. For purposes of this section, the
2 following terms shall mean:

- 3 (1) "Commission", the Missouri public service
4 commission established under section 386.040;
- 5 (2) "Water corporation", a corporation with more than
6 one thousand Missouri customers that otherwise meets the
7 definition of "water corporation" in section 386.020.

8 2. Water corporations shall develop a qualification
9 process open to all contractors seeking to provide
10 construction and construction-related services for planned
11 infrastructure projects on the water corporation's
12 distribution system. The water corporation shall specify
13 qualification requirements and goals for contractors seeking
14 to perform such work, including but not limited to

15 experience, performance criteria, safety record and
16 policies, technical expertise, scheduling needs and
17 available resources, supplier diversity and insurance
18 requirements. Contractors that meet the qualification
19 requirements shall be eligible to participate in a
20 competitive bidding process for providing construction and
21 construction-related services for planned infrastructure
22 projects on the water corporation's distribution system, and
23 the contractor making the lowest and best bid shall be
24 awarded such contract. For contractors not qualifying
25 through the competitive bid process, the water corporation,
26 upon request from the contractor, shall provide information
27 from the process in which the contractor can be informed as
28 to how to be better positioned to qualify for such bid
29 opportunities in the future. Nothing in this section shall
30 be construed as requiring any water corporation to use third
31 parties instead of its own employees to perform such work,
32 to use the contractor qualification or competitive bidding
33 process in the case of an emergency project, or to terminate
34 any existing contract with a contractor prior to its
35 expiration.

36 3. Within thirty days after August 28, 2018, and with
37 the filing of a general rate proceeding initiated by the
38 water corporation, the water corporation shall file a
39 statement with the commission confirming it has established
40 a qualification process meeting the requirements of this
41 section and that such process is used for no less than [ten]
42 **twenty** percent of the corporation's external expenditures
43 for planned infrastructure projects on the water
44 corporation's distribution system. The commission shall
45 have the authority to verify the statements to ensure
46 compliance with this section.

47 4. By December 31, 2020, the commission shall submit a
48 report to the general assembly on the effects of this
49 section, including water corporation compliance, the costs
50 of performing planned infrastructure projects prior to the
51 implementation of this section compared to after the
52 implementation of this section, and any other information
53 regarding the process established under this section that
54 the commission deems necessary.

**393.1500. Sections 393.1500 to 393.1509 shall be known
2 and may be cited as the "Missouri Water and Sewer
3 Infrastructure Act".**

**393.1503. As used in sections 393.1500 to 393.1509,
2 the following terms shall mean:**

**(1) "Appropriate pretax revenues", the revenues
4 necessary to produce net operating income equal to:**

**(a) The water or sewer corporation's pretax weighted
6 cost of capital multiplied by the net original cost of
7 eligible infrastructure system projects, including
8 recognition of accumulated deferred income taxes and
9 accumulated depreciation associated with eligible
10 infrastructure system projects which are included in the
11 petition to establish or change a WSIRA, plus accumulated
12 deferred income taxes and accumulated depreciation
13 associated with any eligible infrastructure system projects
14 in a currently effective WSIRA implemented pursuant to
15 sections 393.1506 and 393.1509;**

**(b) The state, federal, and local income or excise
17 taxes applicable to such revenues;**

**(c) The depreciation expense applicable to the
19 eligible infrastructure system project less annual
20 depreciation expense associated with any related facility
21 retirements; and**

22 (d) The property taxes applicable to the eligible
23 infrastructure that will be due within twelve months of the
24 filing of a request to implement a water and sewer
25 infrastructure rate adjustment pursuant to sections 393.1506
26 and 393.1509, less any property taxes associated with any
27 related facility retirements;

28 (2) "Commission", the Missouri public service
29 commission;

30 (3) "Eligible infrastructure system projects", water
31 or sewer utility plant projects that:

32 (a) Replace or extend the useful life of existing
33 infrastructure;

34 (b) Are in service and used and useful;

35 (c) Do not include projects intended solely for
36 customer growth; and

37 (d) The costs of which were not recovered in the water
38 or sewer corporation's base rates in its most recent general
39 rate case;

40 (4) "Sewer corporation", the same as defined in
41 section 386.020;

42 (5) "Water and sewer infrastructure rate adjustment"
43 or "WSIRA", a separate line item rate on a customer's water
44 or sewer bill designed to recover the appropriate pretax
45 revenues associated with eligible infrastructure system
46 projects implemented pursuant to sections 393.1500 to
47 393.1509;

48 (6) "Water corporation", the same as defined in
49 section 386.020;

50 (7) "Water or sewer utility plant projects", shall
51 consist of the following:

52 (a) Replacement of or cleaning and relining of
53 existing water and sewer pipes, and associated valves,

54 hydrants, meters, service lines, laterals, sewer taps,
55 curbstops, and manholes;

56 (b) Replacement of lead mains, lead goosenecks and
57 lead service lines, and associated valves and meters;

58 (c) Replacement of booster station and lift station
59 pumps, with equipment of similar capacity and operation, as
60 well as related pipes, valves, and meters;

61 (d) Facilities relocations required due to
62 construction or improvement of a highway, road, street,
63 public way, or other public work by or on behalf of the
64 United States, this state, a political subdivision of this
65 state, or another entity having the power of eminent domain;
66 provided that the costs related to such projects have not
67 been reimbursed to the water or sewer corporation;

68 (e) Replacement of water and wastewater treatment
69 mechanical equipment with equipment of similar capacity and
70 operation, including well and intake pumps, transfer pumps,
71 high service or discharge pumps, and metering pumps; and

72 (f) Replacement of Supervisory Control and Data
73 Acquisition System (SCADA) components necessary for the
74 operation and monitoring of remote installations including
75 radio and cellular communication equipment, and programmable
76 logic controllers;

77 (8) "WSIRA revenues", revenues produced through
78 implementation of a WSIRA pursuant to sections 393.1500 to
79 393.1509, exclusive of revenues from all other rates and
80 charges.

393.1506. 1. Notwithstanding any provisions of
2 chapter 386 and this chapter to the contrary, a water or
3 sewer corporation that provides water or sewer service to
4 more than eight thousand customer connections may file a
5 petition and proposed rate schedules with the commission to

6 establish or change a WSIRA that will provide for the
7 recovery of the appropriate pretax revenues associated with
8 the eligible infrastructure system projects, less the
9 appropriate pretax revenues associated with any retired
10 utility plant that is being replaced by the eligible
11 infrastructure system projects. The WSIRA shall not produce
12 revenues in excess of fifteen percent of the water or sewer
13 corporation's base revenue requirement approved by the
14 commission in the water or sewer corporation's most recent
15 general rate proceeding; provided, however, that neither
16 WSIRA revenues attributable to replacement of customer-owned
17 lead service lines, nor any reconciliation amounts described
18 in subdivision (2) of subsection 5 of section 393.1509,
19 shall count toward the program cap. The WSIRA and any
20 future changes thereto shall be calculated and implemented
21 in accordance with the provisions of sections 393.1503 to
22 393.1509. WSIRA revenues shall be subject to refund based
23 upon a finding and order of the commission, to the extent
24 provided in subsections 5 and 8 of section 393.1509.

25 2. The commission shall not approve a WSIRA for a
26 water or sewer corporation that has not had a general rate
27 proceeding decided or dismissed by issuance of a commission
28 order within the past three years of the filing of a
29 petition pursuant to this section unless the water or sewer
30 corporation has filed for or is the subject of a new general
31 rate proceeding.

32 3. In no event shall a water or sewer corporation
33 collect a WSIRA for a period exceeding three years unless
34 the water or sewer corporation has filed for or is the
35 subject of a pending general rate proceeding; provided that
36 the WSIRA may be collected until the effective date of new
37 rate schedules established as a result of the new general

38 rate proceeding or until the subject general rate proceeding
39 is otherwise decided or dismissed by issuance of a
40 commission order without new rates being established.

41 4. Except as provided in this subsection, in no event
42 shall a water or sewer corporation collect a WSIRA if also
43 collecting revenues from a commission approved
44 infrastructure system replacement surcharge as provided in
45 sections 393.1000 to 393.1006. In no event shall a customer
46 be charged both an infrastructure system replacement
47 surcharge as provided in sections 393.1000 to 393.1006 and a
48 WSIRA. In the event a water or sewer corporation is
49 collecting infrastructure system replacement surcharge
50 revenues under sections 393.1000 to 393.1006, that was
51 approved prior to August 28, 2021, when the initial WSIRA is
52 filed, the approved infrastructure system replacement
53 surcharge revenues shall be included in the new WSIRA filing.

393.1509. 1. (1) At the time that a water or sewer
2 corporation files a petition with the commission seeking to
3 establish or change a WSIRA, it shall submit proposed WSIRA
4 rate schedules and supporting documentation regarding the
5 calculation of the proposed WSIRA with the petition and
6 shall serve the office of the public counsel with a copy of
7 its petition, its proposed WSIRA rate schedules, and its
8 supporting documentation.

9 (2) Upon the filing of a petition and any associated
10 WSIRA rate schedules, seeking to establish or change a
11 WSIRA, the commission shall publish notice of the filing.

12 (3) Three months prior to a water or sewer corporation
13 filing a petition to establish a WSIRA, it shall also file
14 with the commission a five-year capital expenditure plan
15 unless such a plan has already been submitted during the
16 previous twelve months. Thereafter, the water or sewer

17 corporation shall annually file with the commission a five-
18 year capital expenditure plan by January thirty-first of
19 each year the corporation is collecting revenues through a
20 WSIRA. Nothing in this section shall be construed to
21 prevent the water or sewer corporation from prioritizing
22 eligible infrastructure projects that coincide with public
23 works projects.

24 2. (1) When a petition, along with any associated
25 proposed rate schedules, is filed pursuant to the provisions
26 of sections 393.1503 to 393.1509, the commission shall
27 conduct an examination of the proposed WSIRA.

28 (2) The staff of the commission may examine
29 information of the water or sewer corporation to confirm
30 that the underlying costs are in accordance with the
31 provisions of sections 393.1503 to 393.1509, and to confirm
32 proper calculation of the proposed WSIRA, and may submit a
33 report regarding its examination to the commission not later
34 than ninety days after the petition is filed. No other
35 revenue requirement or ratemaking issues shall be examined
36 in consideration of the petition or associated proposed
37 WSIRA rate schedules filed pursuant to the provisions of
38 sections 393.1503 to 393.1509.

39 (3) The commission may hold a hearing on the petition
40 and any associated WSIRA rate schedule and shall issue an
41 order to become effective not later than one hundred eighty
42 days after the petition is filed.

43 (4) If the commission finds that a petition complies
44 with the requirements of sections 393.1503 to 393.1509, the
45 commission shall enter an order authorizing the water or
46 sewer corporation to implement a WSIRA that is sufficient to
47 recover appropriate pretax revenues, as determined by the

48 commission pursuant to the provisions of sections 393.1503
49 to 393.1509.

50 3. A water or sewer corporation may effectuate a
51 change in its WSIRA pursuant to this section no more often
52 than two times in every twelve-month period.

53 4. In determining the appropriate pretax revenues, the
54 commission shall consider only the following factors:

55 (1) The current state, federal, and local income or
56 excise tax rates, including any income tax deductions;

57 (2) The water or sewer corporation's actual regulatory
58 capital structure as determined during the most recent
59 general rate proceeding of the water or sewer corporation;

60 (3) The actual cost rates for the water or sewer
61 corporation's debt and preferred stock as determined during
62 the most recent general rate proceeding of the water or
63 sewer corporation;

64 (4) The water or sewer corporation's cost of common
65 equity as determined during the most recent general rate
66 proceeding of the water or sewer corporation;

67 (5) The current property tax rate or rates applicable
68 to the eligible infrastructure system projects;

69 (6) The current depreciation rates applicable to the
70 eligible infrastructure system projects;

71 (7) In the event information described in subdivisions
72 (2), (3), and (4) of this subsection is unavailable and the
73 commission is not provided with such information on an
74 agreed-upon basis, the commission shall utilize the overall
75 pretax weighted average cost of capital last authorized for
76 the water or sewer corporation in a general rate proceeding
77 regarding a WSIRA or an infrastructure system replacement
78 surcharge under sections 393.1000 to 393.1006.

79 5. (1) A WSIRA shall be calculated based upon the
80 amount of infrastructure system project costs that are
81 eligible for recovery during the period in which the WSIRA
82 will be in effect and upon the applicable tariff rate group
83 billing determinants utilized in designing the water or
84 sewer corporation's customer rates in its most recent
85 general rate proceeding and allocated in a manner consistent
86 with the rate design methodology utilized to develop the
87 water or sewer corporation's base rates resulting from its
88 most recent general rate proceeding.

89 (2) At the end of each twelve-month calendar period
90 that a WSIRA is in effect, the water or sewer corporation
91 shall reconcile the differences between the revenues
92 resulting from a WSIRA and the appropriate pretax revenues
93 as found by the commission for that period and shall submit
94 the reconciliation and a proposed WSIRA to the commission
95 for approval to recover or credit the difference, as
96 appropriate, through a WSIRA.

97 6. (1) A water or sewer corporation that has
98 implemented a WSIRA pursuant to the provisions of sections
99 393.1503 to 393.1509 shall file revised WSIRA schedules to
100 reset the WSIRA to zero when new base rates and charges
101 become effective for the water or sewer corporation
102 following a commission order establishing customer rates in
103 a general rate proceeding that incorporates in the utility's
104 base rates, subject to subsections 8 and 9 of this section,
105 eligible costs previously reflected in a WSIRA.

106 (2) Upon the inclusion in a water or sewer
107 corporation's base rates, subject to subsections 8 and 9 of
108 this section, of eligible costs previously reflected in a
109 WSIRA, the water or sewer corporation shall immediately
110 thereafter reconcile any previously unreconciled WSIRA

111 revenues as necessary to ensure that revenues resulting from
112 the WSIRA match as closely as possible the appropriate
113 pretax revenues as found by the commission for that period.

114 7. A water or sewer corporation's filing of a petition
115 to establish or change a WSIRA pursuant to the provisions of
116 sections 393.1503 to 393.1509 shall not be considered a
117 request for a general increase in the water or sewer
118 corporation's base rates and charges.

119 8. Commission approval of a petition, and any
120 associated rate schedules, to establish or change a WSIRA
121 pursuant to the provisions of sections 393.1503 to 393.1509
122 shall in no way be binding upon the commission in
123 determining the ratemaking treatment to be applied to
124 eligible infrastructure system projects during a subsequent
125 general rate proceeding when the commission may undertake to
126 review the prudence of such costs. In the event the
127 commission disallows, during a subsequent general rate
128 proceeding, recovery of costs associated with eligible
129 infrastructure system projects previously included in a
130 WSIRA, the water or sewer corporation shall offset its WSIRA
131 in the future as necessary to recognize and account for any
132 such overcollections.

133 9. Nothing contained in sections 393.1503 to 393.1509
134 shall be construed to impair in any way the authority of the
135 commission to review the reasonableness of the rates or
136 charges of a water or sewer corporation, including review of
137 the prudence of eligible infrastructure system replacements
138 made by a water or sewer corporation, pursuant to the
139 provisions of section 386.390.

140 10. The commission may take into account any change in
141 business risk to the water or sewer corporation resulting
142 from implementation of the WSIRA in setting the

143 corporation's allowed return in a general rate proceeding in
144 addition to any other changes in business risk experienced
145 by the corporation.

146 11. The commission shall have authority to promulgate
147 rules for the implementation of sections 393.1503 to
148 393.1509, but only to the extent such rules are consistent
149 with, and do not delay the implementation of, the provisions
150 of sections 393.1503 to 393.1509. Any rule or portion of a
151 rule, as that term is defined in section 536.010, that is
152 created under the authority delegated in this section shall
153 become effective only if it complies with and is subject to
154 all of the provisions of chapter 536 and, if applicable,
155 section 536.028. This section and chapter 536 are
156 nonseverable and if any of the powers vested with the
157 general assembly pursuant to chapter 536 to review, to delay
158 the effective date, or to disapprove and annul a rule are
159 subsequently held unconstitutional, then the grant of
160 rulemaking authority and any rule proposed or adopted after
161 August 28, 2021, shall be invalid and void.

162 12. The provisions of sections 393.1500 to 393.1509
163 shall expire on December 31, 2031.

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

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

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

11 (3) "Rural area" shall be deemed to mean any area of
12 the United States not included within the boundaries of any
13 city, town or village having a population in excess of
14 ~~[fifteen]~~ **sixteen** hundred inhabitants, and such term shall
15 be deemed to include both the farm and nonfarm population
16 thereof. **The number of inhabitants specified in this**
17 **subdivision shall be increased by six percent every ten**
18 **years after each decennial census beginning in 2030.**

 394.120. 1. No person shall become a member of a
2 cooperative unless such person shall agree to use electric
3 energy furnished by the cooperative when such electric
4 energy shall be available through its facilities. The
5 bylaws of a cooperative may provide that any person,
6 including an incorporator, shall cease to be a member
7 thereof if he or she shall fail or refuse to use electric
8 energy made available by the cooperative or if electric
9 energy shall not be made available to such person by the
10 cooperative within a specified time after such person shall
11 have become a member thereof. Membership in the cooperative
12 shall not be transferable, except as provided in the
13 bylaws. The bylaws may prescribe additional qualifications
14 and limitations in respect of membership.

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

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

20 4. Meetings of members shall be held at such place as
21 may be provided in the bylaws. In the absence of any such
22 provisions, all meetings shall be held in the city or town
23 in which the principal office of the cooperative is located.

24 5. Except as herein otherwise provided, written or
25 printed notice stating the time and place of each meeting of
26 members and, in the case of a special meeting, the purpose
27 or purposes for which the meeting is called, shall be given
28 to each member, either personally or by mail, not less than
29 ten nor more than twenty-five days before the date of the
30 meeting.

31 6. Two percent of the first two thousand members and
32 one percent of the remaining members, present in person, or
33 if the bylaws so provide, participating electronically or by
34 mail, shall constitute a quorum for the transaction of
35 business at all meetings of the members, unless the bylaws
36 prescribe the presence of a greater percentage of the
37 members for a quorum. If less than a quorum is present at
38 any meeting, a majority of those present in person may
39 adjourn the meeting from time to time without further notice.

40 7. Each member shall be entitled to one vote on each
41 matter submitted to a vote at a meeting. Voting shall be in
42 person, but, if the bylaws so provide, may also be by proxy,
43 by electronic means, by mail, or any combination thereof.
44 If the bylaws provide for voting by proxy, by electronic
45 means, or by mail, they shall also prescribe the conditions
46 under which proxy, electronic, or mail voting shall be
47 exercised. In any event, no person shall vote as proxy for
48 more than two members at any meeting of the members.

49 **8. Notwithstanding the provisions of subsections 2 and**
50 **7 of this section, the board of directors shall have the**
51 **power to set the time and place of the annual meeting and**
52 **also to provide for voting by proxy, electronic means, by**
53 **mail, or any combination thereof, and to prescribe the**
54 **conditions under which such voting shall be exercised. The**
55 **meeting requirement provided in this section may be**

56 **satisfied through virtual means. The provisions of this**
57 **subsection shall expire on August 28, 2022.**

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

3 (1) "Permanent service", electrical service provided
4 through facilities which have been permanently installed on
5 a structure and which are designed to provide electric
6 service for the structure's anticipated needs for the
7 indefinite future, as contrasted with facilities installed
8 temporarily to provide electrical service during
9 construction. Service provided temporarily shall be at the
10 risk of the electrical supplier and shall not be
11 determinative of the rights of the provider or recipient of
12 permanent service;

13 (2) "Structure" or "structures", an agricultural,
14 residential, commercial, industrial or other building or a
15 mechanical installation, machinery or apparatus at which
16 retail electric energy is being delivered through a metering
17 device which is located on or adjacent to the structure and
18 connected to the lines of an electrical supplier. Such
19 terms shall include any contiguous or adjacent additions to
20 or expansions of a particular structure. Nothing in this
21 section shall be construed to confer any right on [a rural
22 electric cooperative] **an electric supplier** to serve new
23 structures on a particular tract of land because it was
24 serving an existing structure on that tract.

25 2. Once a rural electric cooperative, or its
26 predecessor in interest, lawfully commences supplying retail
27 electric energy to a structure through permanent service
28 facilities, it shall have the right to continue serving such
29 structure, and other suppliers of electrical energy shall
30 not have the right to provide service to the structure

31 except as might be otherwise permitted in the context of
32 municipal annexation, pursuant to section 386.800 and
33 section 394.080, or pursuant to a territorial agreement
34 approved under section 394.312. The public service
35 commission, upon application made by an affected party, may
36 order a change of suppliers on the basis that it is in the
37 public interest for a reason other than a rate differential,
38 and the commission is hereby given jurisdiction over rural
39 electric cooperatives to accomplish the purpose of this
40 section. The commission's jurisdiction under this section
41 is limited to public interest determinations and excludes
42 questions as to the lawfulness of the provision of service,
43 such questions being reserved to courts of competent
44 jurisdiction. Except as provided herein, nothing in this
45 section shall be construed as otherwise conferring upon the
46 commission jurisdiction over the service, rates, financing,
47 accounting or management of any such cooperative, and except
48 as provided in this section, nothing contained herein shall
49 affect the rights, privileges or duties of existing
50 cooperatives pursuant to this chapter. Nothing in this
51 section shall be construed to make lawful any provision of
52 service which was unlawful prior to July 11, 1991. Nothing
53 in this section shall be construed to make unlawful the
54 continued lawful provision of service to any structure which
55 may have had a different supplier in the past, if such a
56 change in supplier was lawful at the time it occurred.
57 However, those customers who had cancelled service with
58 their previous supplier or had requested cancellation by May
59 1, 1991, shall be eligible to change suppliers as per
60 previous procedures. No customer shall be allowed to change
61 electric suppliers by disconnecting service between May 1,
62 1991, and July 11, 1991.

63 3. Notwithstanding the provisions of this section and
64 sections 91.025, 393.106, and 394.080 to the contrary, in
65 the event that a retail electric supplier is providing
66 service to a structure located within a city, town, or
67 village that has ceased to be a rural area, and such
68 structure is demolished and replaced by a new structure,
69 such retail electric service supplier may provide permanent
70 service to the new structure upon the request of the owner
71 of the new structure.

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