

SECOND REGULAR SESSION

SENATE BILL NO. 921

100TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR WALLINGFORD.

Read 1st time January 22, 2020, and ordered printed.

ADRIANE D. CROUSE, Secretary.

5022S.011

AN ACT

To repeal sections 386.020 and 523.010, RSMo, and to enact in lieu thereof three new sections relating to broadband operations and services using electrical corporation broadband infrastructure.

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

Section A. Sections 386.020 and 523.010, RSMo, are repealed and three
2 new sections enacted in lieu thereof, to be known as sections 386.020, 393.1600,
3 and 523.010, 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
3 exchange telecommunications company certified by the commission to provide
4 basic or nonbasic local telecommunications service or switched exchange access
5 service, or any combination of such services, in a specific geographic area
6 subsequent to December 31, 1995;

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

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

16 (4) "Basic local telecommunications service", two-way switched voice
17 service within a local calling scope as determined by the commission comprised

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

18 of any of the following services and their recurring and nonrecurring charges:

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

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

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

28 (d) Access to basic local operator services;

29 (e) Access to basic local directory assistance;

30 (f) Standard intercept service;

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

33 (h) One standard white pages directory listing.

34 Basic local telecommunications service does not include optional toll-free calling
35 outside a local calling scope but within a community of interest, available for an
36 additional monthly fee or the offering or provision of basic local
37 telecommunications service at private shared-tenant service locations;

38 (5) "Cable television service", the one-way transmission to subscribers of
39 video programming or other programming service and the subscriber interaction,
40 if any, which is required for the selection of such video programming or other
41 programming service;

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

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

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

48 (9) "Competitive telecommunications company", a telecommunications
49 company which has been classified as such by the commission pursuant to section
50 392.245 or 392.361;

51 (10) "Competitive telecommunications service", a telecommunications
52 service which has been classified as such by the commission pursuant to section
53 392.245 or to section 392.361, or which has become a competitive

54 telecommunications service pursuant to section 392.370;

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

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

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

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

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

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

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

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

73 (14) "Electric plant" includes all real estate, fixtures and personal
74 property operated, controlled, owned, used or to be used for or in connection with
75 or to facilitate the generation, transmission, distribution, sale or furnishing of
76 electricity for light, heat or power; and any conduits, ducts or other devices,
77 materials, apparatus or property for containing, holding or carrying conductors
78 used or to be used for the transmission of electricity for light, heat or power; **and**
79 **broadband infrastructure operated, controlled, owned, used or to be**
80 **used for or in connection with or to facilitate the provision of electric**
81 **service, broadband operations, or broadband services. "Broadband**
82 **infrastructure", "broadband operations", and "broadband services" have**
83 **the same meanings as given such phrases in subsection 3 of section**
84 **393.1600;**

85 (15) "Electrical corporation" includes every corporation, company,
86 association, joint stock company or association, partnership and person, their
87 lessees, trustees or receivers appointed by any court whatsoever, other than a
88 railroad, light rail or street railroad corporation generating electricity solely for
89 railroad, light rail or street railroad purposes or for the use of its tenants and not

90 for sale to others, owning, operating, controlling or managing any electric plant
91 except where electricity is generated or distributed by the producer solely on or
92 through private property for railroad, light rail or street railroad purposes or for
93 its own use or the use of its tenants and not for sale to others. The term
94 "electrical corporation" shall not include:

95 (a) Municipally owned electric utilities operating under chapter 91;

96 (b) Rural electric cooperatives operating under chapter 394;

97 (c) Persons or corporations not otherwise engaged in the production or
98 sale of electricity at wholesale or retail that sell, lease, own, control, operate, or
99 manage one or more electric vehicle charging stations;

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

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

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

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

117 (20) "Heating company" includes every corporation, company, association,
118 joint stock company or association, partnership and person, their lessees, trustees
119 or receivers, appointed by any court whatsoever, owning, operating, managing or
120 controlling any plant or property for manufacturing and distributing and selling,
121 for distribution, or distributing hot or cold water, steam or currents of hot or cold
122 air for motive power, heating, cooking, or for any public use or service, in any
123 city, town or village in this state; provided, that no agency or authority created
124 by or operated pursuant to an interstate compact established pursuant to section
125 70.370 shall be a heating company or subject to regulation by the commission;

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

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

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

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

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

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

141 and

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

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

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

149 (26) "InterLATA", interexchange telecommunications service between
150 points in different local access and transportation areas;

151 (27) "IntraLATA", interexchange telecommunications service between
152 points within the same local access and transportation area;

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

159 (29) "Line" includes route;

160 (30) "Local access and transportation area" or "LATA", contiguous
161 geographic area approved by the U.S. District Court for the District of Columbia

162 in United States v. Western Electric, Civil Action No. 82-0192 that defines the
163 permissible areas of operations for the Bell Operating companies;

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

170 (32) "Local exchange telecommunications service", telecommunications
171 service between points within an exchange;

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

179 (34) "Municipality" includes a city, village or town;

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

187 (36) "Noncompetitive telecommunications company", a telecommunications
188 company other than a competitive telecommunications company or a
189 transitionally competitive telecommunications company;

190 (37) "Noncompetitive telecommunications service", a telecommunications
191 service other than a competitive or transitionally competitive telecommunications
192 service;

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

197 (39) "Operator services contract", any agreement between a traffic

198 aggregator and a certificated interexchange telecommunications company to
199 provide operator services at a traffic aggregator location;

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

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

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

212 (43) "Public utility" includes every pipeline corporation, gas corporation,
213 electrical corporation, telecommunications company, water corporation, heating
214 company or refrigerating corporation, and sewer corporation, as these terms are
215 defined in this section, and each thereof is hereby declared to be a public utility
216 and to be subject to the jurisdiction, control and regulation of the commission and
217 to the provisions of this chapter;

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

224 (45) "Railroad corporation" includes every corporation, company,
225 association, joint stock company or association, partnership and person, their
226 lessees, trustees or receivers appointed by any court whatsoever, owning, holding,
227 operating, controlling or managing any railroad as defined in this section, or any
228 cars or other equipment used thereon or in connection therewith;

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

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

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

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

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

256 (51) "Street railroad" includes every railroad by whatsoever type of power
257 operated, and all extensions and branches thereof and supplementary facilities
258 thereto by whatsoever type of vehicle operated, for public use in the conveyance
259 of persons or property for compensation, mainly providing local transportation
260 service upon the streets, highways and public places in a municipality, or in and
261 adjacent to a municipality, and including all cars, buses and other rolling stock,
262 equipment, switches, spurs, tracks, poles, wires, conduits, cables, subways,
263 tunnels, stations, terminals and real estate of every kind used, operated or owned
264 in connection therewith but this term shall not include light rail as defined in
265 this section; and the term "street railroad" when used in this chapter shall also
266 include all motor bus and trolley bus lines and routes and similar local
267 transportation facilities, and the rolling stock and other equipment thereof and
268 the appurtenances thereto, when operated as a part of a street railroad or trolley
269 bus local transportation system, or in conjunction therewith or supplementary

270 thereto, but such term shall not include a railroad constituting or used as part
271 of a trunk line railroad system and any street railroad as defined above which
272 shall be converted wholly to motor bus operation shall nevertheless continue to
273 be included within the term street railroad as used herein;

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

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

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

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

298 (b) Answering services and paging services;

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

303 (d) Services provided by a hospital, hotel, motel, or other similar business
304 whose principal service is the provision of temporary lodging through the owning
305 or operating of message switching or billing equipment solely for the purpose of

306 providing at a charge telecommunications services to its temporary patients or
307 guests;

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

309 (f) Cable television service;

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

312 (h) Electronic publishing services;

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

315 (j) Interconnected voice over internet protocol service;

316 (55) "Telephone cooperative", every corporation defined as a
317 telecommunications company in this section, in which at least ninety percent of
318 those persons and corporations subscribing to receive local telecommunications
319 service from the corporation own at least ninety percent of the corporation's
320 outstanding and issued capital stock and in which no subscriber owns more than
321 two shares of the corporation's outstanding and issued capital stock;

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

327 (57) "Transitionally competitive telecommunications company", an
328 interexchange telecommunications company which provides any noncompetitive
329 or transitionally competitive telecommunications service, except for an
330 interexchange telecommunications company which provides only noncompetitive
331 telecommunications service;

332 (58) "Transitionally competitive telecommunications service", a
333 telecommunications service offered by a noncompetitive or transitionally
334 competitive telecommunications company and classified as transitionally
335 competitive by the commission pursuant to section 392.361 or 392.370;

336 (59) "Water corporation" includes every corporation, company, association,
337 joint stock company or association, partnership and person, their lessees,
338 trustees, or receivers appointed by any court whatsoever, owning, operating,
339 controlling or managing any plant or property, dam or water supply, canal, or
340 power station, distributing or selling for distribution, or selling or supplying for
341 gain any water;

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

**393.1600. 1. This section shall be known and may be cited as the
2 "Electrical Corporation Broadband Authorization Act".**

3 2. The general assembly finds and declares the following:

**4 (1) Broadband infrastructure is useful and increasingly
5 necessary to electrical corporations to facilitate the provision of
6 electric service to the citizens of this state and to improve the
7 reliability, resilience, and security of electrical corporations' electrical
8 plants and systems;**

**9 (2) Access to broadband services is vital to the public because
10 such services are necessary to improve health outcomes by enhancing
11 access to health care, to enhance access to educational opportunities,
12 to create and facilitate employment opportunities, and to induce,
13 create, and promote industrial and economic development, and
14 therefore it is the public policy of this state to encourage and facilitate
15 the development of and investment in broadband infrastructure that
16 can be used to provide broadband services;**

**17 (3) Broadband infrastructure useful and necessary to electrical
18 corporations for electric purposes may be deployed and operated in a
19 manner which, while not impairing, diminishing, or interfering with
20 the provision of electric service, can also be used to provide broadband
21 services, and therefore it is the public policy of the state to encourage
22 electrical corporations to invest in and deploy broadband
23 infrastructure having such capacity, to operate, and to use and
24 authorize the use of, such broadband infrastructure to provide
25 broadband services;**

**26 (4) It is the intent of this section to authorize electrical
27 corporations to invest in, deploy, operate, and use and authorize the
28 use of, broadband infrastructure having capacity in excess of that
29 useful and necessary for electric purposes, to provide broadband
30 services with the electrical corporation's or its broadband affiliate's
31 investment in such broadband infrastructure to be included in the**

32 electrical corporation's rate base used to set the revenue requirement
33 upon which the electrical corporation's base rates are set;

34 (5) It is further the intent of this section that the customers of
35 electrical corporations shall receive the benefit of broadband
36 operations and broadband services revenues received by the electrical
37 corporation through inclusion in the electrical corporation's revenue
38 requirement upon which its base rates are set of a normalized level of
39 broadband operations and broadband services revenues as a means to
40 offset the electrical corporation's overall cost of service;

41 (6) This grant of authorization to electrical corporations is
42 reasonably related to the proposed legislative objective of increasing
43 access to broadband services while providing an offset to the electrical
44 corporation's overall cost of service by including a normalized level of
45 broadband operations and broadband services revenues in the
46 electrical corporation's revenue requirement used to set its base rates.

47 3. As used in this section, the following terms shall mean:

48 (1) "Broadband affiliate", a person that is either majority-owned
49 by, or otherwise controlled by, an electrical corporation, and that is
50 either a broadband operator or a broadband services provider, or both;

51 (2) "Broadband infrastructure", any and all component parts of
52 an electrical corporation's infrastructure that may be used to provide
53 broadband services, whether now existing or that may be developed in
54 the future, and including, but not limited to: wires, copper cables, fiber
55 optic cables, conduits, ducts, poles, antennas, transmitters, receivers,
56 amplifiers, switches, multiplexers, routers, servers, and all
57 appurtenances thereto;

58 (3) "Broadband operations", operation of all or any portion of an
59 electrical corporation's broadband infrastructure in such a manner that
60 it can be used by broadband services providers to provide broadband
61 services;

62 (4) "Broadband operations revenue", revenue received by an
63 electrical corporation for the provision of broadband operations, and
64 revenues received by its broadband affiliates, to the extent received by
65 the electrical corporation as majority owner or holder of the
66 controlling interest in the broadband affiliates, for the purpose of
67 broadband services;

68 (5) "Broadband operator", an electrical corporation or a

69 **broadband affiliate that engages in broadband operations;**

70 **(6) "Broadband services", the provision of connectivity to a data**
71 **or information transmission medium or the provision of connectivity**
72 **to a technology, for purposes of accessing the internet or providing**
73 **other capabilities including, but not limited to, information sharing,**
74 **information storage, information content, or protocol conversion;**

75 **(7) "Broadband services provider", an electrical corporation, a**
76 **broadband affiliate, or another person, that uses an electrical**
77 **corporation's broadband infrastructure to provide broadband services;**

78 **(8) "Broadband services revenue", revenue received by an**
79 **electrical corporation for the provision of broadband services, and**
80 **revenue received by its broadband affiliates, to the extent received by**
81 **the electrical corporation as majority owner or holder of the**
82 **controlling interest in the broadband affiliates, for the broadband**
83 **affiliates provision of broadband operations;**

84 **(9) "Commission", the Missouri public service commission;**

85 **(10) "Electrical corporation", the same as defined in section**
86 **386.020, but shall not include an electrical corporation as described in**
87 **subsection 2 of section 393.110.**

88 **4. (1) To the extent not otherwise authorized by law, and in**
89 **addition to all other purposes for which electrical corporations may be**
90 **formed under the laws of this state and all other powers and authority**
91 **currently granted to electrical corporations under the laws of this**
92 **state, an electrical corporation is authorized, but not required, to do**
93 **any or all of the following:**

94 **(a) Own, construct, install, maintain, repair, and replace**
95 **broadband infrastructure;**

96 **(b) Operate the electrical corporation's broadband infrastructure**
97 **for or in connection with the electrical corporation's provision of**
98 **electric service;**

99 **(c) Engage in broadband operations, or permit its broadband**
100 **affiliates to engage in broadband operations, using the electrical**
101 **corporation's broadband infrastructure;**

102 **(d) Provide broadband services, or permit its broadband**
103 **affiliates or third-party broadband services providers to provide**
104 **broadband services, using the electrical corporation's broadband**
105 **infrastructure; and**

106 (e) In order to effectuate the provisions of this subdivision, to
107 enter into contracts, leases, licenses, or other agreements with its
108 broadband affiliates, with third-party broadband service providers, or
109 with customers to whom it provides broadband services, all on such
110 terms and conditions, including rates and charges, as the electrical
111 corporation in its sole discretion, shall determine and, notwithstanding
112 the provisions of section 393.190 or any other law to the contrary,
113 without securing any authorization, permission, or approval from the
114 commission.

115 (2) An electrical corporation shall not require any of its electric
116 service customers to purchase broadband services provided via the
117 electrical corporation's broadband infrastructure as a condition of
118 receiving or continuing to receive electric service from the electrical
119 corporation.

120 (3) An electrical corporation shall not disconnect any customer
121 from receiving electric service due to the customer's failure to pay for
122 broadband services provided via the electrical corporation's broadband
123 infrastructure.

124 5. (1) The provisions of this subsection shall apply to an electric
125 corporation that has exercised the authority granted to it under
126 subsection 4 of this section.

127 (2) The electrical corporation's: test year broadband operations
128 revenues, as updated, trued-up, or normalized if applicable; test year
129 broadband services revenues, as updated, trued-up, or normalized if
130 applicable; and prudently-incurred test year operations and
131 maintenance expenditures associated with generating the revenues
132 described in this subsection, together with the electrical corporation's
133 prudently-incurred investment in broadband infrastructure as of the
134 date through which the electrical corporation's other rate base
135 additions are accounted for, shall be included in the determination of
136 the revenue requirement used to set the electrical corporation's base
137 rate in each of the electrical corporation's general rate proceedings.

138 (3) An ordinance adopted under section 71.520 either before or
139 after the effective date of this section that grants an electrical
140 corporation the rights provided for by such section with respect to the
141 electrical corporation's provision of electric service, and an ordinance
142 adopted or other action taken by a county under section 229.100

143 **authorizing the activities outlined therein, shall in each case be**
144 **deemed to also grant the electrical corporation the right to construct,**
145 **install, maintain, repair, and replace broadband infrastructure, the**
146 **right to engage in broadband operations via the electrical corporation's**
147 **broadband infrastructure either directly or through its broadband**
148 **affiliates, and the right to provide broadband services via the electrical**
149 **corporation's broadband infrastructure, either directly or through its**
150 **broadband affiliates or third-party broadband providers, on and subject**
151 **to the terms and conditions of such an ordinance or other action.**

152 **6. Notwithstanding any provisions of chapters 386 or 393 to the**
153 **contrary, and consistent with authority and discretion granted to**
154 **electrical corporations in paragraph (e) of subdivision (1) of subsection**
155 **4 of this section, the commission shall not have jurisdiction over the**
156 **terms, conditions, charges, contracts, leases, licenses, or other**
157 **agreements of an electrical corporation, or of its broadband affiliate,**
158 **for the electrical corporation's or its broadband affiliate's broadband**
159 **operations or provision of broadband services.**

523.010. 1. In case land, or other property, is sought to be appropriated
2 by any road, railroad, street railway, telephone, telegraph or any electrical
3 corporation organized for the manufacture, **distribution**, or transmission of
4 electric current for light, heat or power, **or for the provision of broadband**
5 **services**, including the construction, when that is the case, of necessary dams
6 and appurtenant canals, flumes, tunnels and tailraces and including the erection,
7 when that is the case, of necessary electric steam powerhouses, hydroelectric
8 powerhouses and electric substations, **and the construction of broadband**
9 **infrastructure**, or any oil, pipeline or gas corporation engaged in the business
10 of transporting or carrying oil, liquid fertilizer solutions, or gas by means of pipes
11 or pipelines laid underneath the surface of the ground, or other corporation
12 created under the laws of this state for public use, and such corporation and the
13 owners cannot agree upon the proper compensation to be paid, or in the case the
14 owner is incapable of contracting, be unknown, or be a nonresident of the state,
15 such corporation may apply to the circuit court of the county of this state where
16 such land or any part thereof lies by petition setting forth the general directions
17 in which it is desired to construct its road, railroad, street railway, telephone, or
18 telegraph line or electric line, including, when that is the case, the construction
19 and maintenance of necessary dams and appurtenant canals, tunnels, flumes and

20 tailraces and, when that is the case, the appropriation of land submerged by the
21 construction of such dam, and including the erection and maintenance, when that
22 is the case, of necessary electric steam powerhouses, hydroelectric powerhouses
23 and electric substations, **and the construction of broadband infrastructure,**
24 or oil, pipeline, liquid fertilizer solution pipeline, or gas line over or underneath
25 the surface of such lands, a description of the real estate, or other property, which
26 the company seeks to acquire; the names of the owners thereof, if known; or if
27 unknown, a pertinent description of the property whose owners are unknown and
28 praying the appointment of three disinterested residents of the county, as
29 commissioners, or a jury, to assess the damages which such owners may severally
30 sustain in consequence of the establishment, erection and maintenance of such
31 road, railroad, street railway, telephone, telegraph line, [or] electrical line, **or**
32 **broadband infrastructure** including damages from the construction and
33 maintenance of necessary dams and the condemnation of land submerged thereby,
34 and the construction and maintenance of appurtenant canals, flumes, tunnels and
35 tailraces and the erection and maintenance of necessary electric steam
36 powerhouses, hydroelectric powerhouses and electric substations, or oil, pipeline,
37 or gas line over or underneath the surface of such lands; to which petition the
38 owners of any or all as the plaintiff may elect of such parcels as lie within the
39 county or circuit may be made parties defendant by names if the names are
40 known, and by the description of the unknown owners of the land therein
41 described if their names are unknown.

42 2. If the proceedings seek to affect the lands of persons under
43 conservatorship, the conservators must be made parties defendant. If the present
44 owner of any land to be affected has less estate than a fee, the person having the
45 next vested estate in remainder may at the option of the petitioners be made
46 party defendant; but if such remaindermen are not made parties, their interest
47 shall not be bound by the proceedings.

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

52 4. Except as provided in subsection 5 of this section, nothing in this
53 chapter shall be construed to give a public utility, as defined in section 386.020,
54 or a rural electric cooperative, as provided in chapter 394, the power to condemn
55 property which is currently used by another provider of public utility service,

56 including a municipality or a special purpose district, when such property is used
57 or useful in providing utility services, if the public utility or cooperative seeking
58 to condemn such property, directly or indirectly, will use or proposes to use the
59 property for the same purpose, or a purpose substantially similar to the purpose
60 for which the property is being used by the provider of the public utility service.

61 5. A public utility or a rural electric cooperative may only condemn the
62 property of another provider of public utility service, even if the property is used
63 or useful in providing utility services by such provider, if the condemnation is
64 necessary for the public purpose of acquiring a nonexclusive easement or
65 right-of-way across the property of such provider and only if the acquisition will
66 not materially impair or interfere with the current use of such property by the
67 utility or cooperative and will not prevent or materially impair such provider of
68 public utility service from any future expansion of its facilities on such property.

69 6. If a public utility or rural electric cooperative seeks to condemn the
70 property of another provider of public utility service, and the conditions in
71 subsection 4 of this section do not apply, this section does not limit the
72 condemnation powers otherwise possessed by such public utility or rural electric
73 cooperative.

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

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