

FIRST REGULAR SESSION

HOUSE BILL NO. 676

91ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE MAYS (50).

Read 1st time February 7, 2001, and 1000 copies ordered printed.

TED WEDEL, Chief Clerk

1283L.011

AN ACT

To repeal sections 153.030 and 153.034, RSMo 2000, relating to utilities, and to enact in lieu thereof eleven new sections relating to the same subject.

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

Section A. Sections 153.030 and 153.034, RSMo 2000, are repealed and eleven new
2 sections enacted in lieu thereof, to be known as sections 153.030, 153.034, 393.960, 393.963,
3 393.966, 393.969, 393.972, 393.975, 393.978, 393.981 and 393.984, to read as follows:

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

2. [And] Taxes levied [thereon] **on the property described in subsection 1 of this**
2 **section** shall be levied and collected in the manner as is now or may hereafter be provided by law
3 for the taxation of railroad property in this state[, and]. County commissions, county boards of
4 equalization and the state tax commission are hereby required to perform the same duties and are
5 given the same powers, including punitive powers, in assessing, equalizing and adjusting the
6 taxes on the property set forth in this section as the county commissions and boards of

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

7 equalization and state tax commission have or may hereafter be empowered with, in assessing,
8 equalizing, and adjusting the taxes on railroad property[; and]. An authorized officer of any such
9 bridge, telegraph, telephone, electric power and light companies, electric transmission lines,
10 pipeline companies, or express company or the owner of any such toll bridge, is hereby required
11 to render reports of the property of such bridge, telegraph, telephone, electric power and light
12 companies, electric transmission lines, pipeline companies, or express companies in like manner
13 as the authorized officer of the railroad company is now or may hereafter be required to render
14 for the taxation of railroad property.

15 3. On or before the fifteenth day of April in [the year 1946 and] each year [thereafter],
16 an authorized officer of each such company shall furnish the state tax commission and county
17 clerks a report, duly subscribed and sworn to by such authorized officer, which is like in nature
18 and purpose to the reports required of railroads under chapter 151, RSMo, showing the full
19 amount of all real and tangible personal property owned, used, leased or otherwise controlled by
20 each such company on January first of the year in which the report is due.

21 4. If any telephone company assessed pursuant to **this** chapter [153] has a microwave
22 relay station or stations in a county in which it has no wire mileage but has wire mileage in
23 another county, then, for purposes of apportioning the assessed value of the distributable property
24 of such companies, the straight line distance between such microwave relay stations shall
25 constitute miles of wire. In the event that any public utility company assessed pursuant to this
26 chapter has no distributable property which physically traverses the counties in which it operates,
27 then the assessed value of the distributable property of such company shall be apportioned to the
28 physical location of the distributable property.

29 **5. All distributable property of electric power and light companies shall continue**
30 **to be assessed, and the values distributed, by the method used during the 2000 assessment**
31 **year. If any distributable property of an electric power and light company is sold or**
32 **otherwise transferred to an affiliate of such electric power or light company pursuant to**
33 **sections 393.966 and 393.969, RSMo, such sold or transferred property shall be treated as**
34 **if it were owned by the electric power and light company seller or transferor for purposes**
35 **of this subsection. Within ninety days after enactment of this provision, the state tax**
36 **commission shall begin a rulemaking proceeding to adopt rules governing the**
37 **methodologies to be used in identifying and assessing the distributable property described**
38 **in this subsection. Such rules shall be consistent with the following criteria:**

39 (1) The distributable property described in this subsection shall be valued in a
40 manner similar to that used under the laws and regulations in effect on August 27, 2001;

41 (2) The value of the property described in this subsection shall be allocated in a
42 manner similar to that used under the laws and regulations in effect on August 27, 2001;

43 **and**

44 **(3) The valuation and allocation methodologies embodied in such rules shall not**
45 **unduly discourage the construction and operation of electric generation capacity in**
46 **Missouri or unduly increase the electric rates paid by Missouri consumers.**

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

- 6 (1) Boiler plant equipment, turbogenerator units and generators;
- 7 (2) Station equipment;
- 8 (3) Towers, fixtures, poles, conductors, conduit transformers, services and meters;
- 9 (4) Substation equipment and fences;
- 10 (5) Rights-of-way;
- 11 (6) Reactor, reactor plant equipment, and cooling towers;
- 12 (7) Communication equipment used for control of generation and distribution of power;
- 13 (8) Land associated with such distributable property.

14 2. The term "local property" of an electric company shall include all real and tangible
15 personal property owned, used, leased or otherwise controlled by the electric company, **and**
16 **except as provided in this subsection**, not used directly in the generation and distribution of
17 power and not defined in subsection 1 of this section as distributable property. Such local
18 property includes, but is not limited to:

- 19 (1) Motor vehicles;
- 20 (2) Construction work in progress;
- 21 (3) Materials and supplies;
- 22 (4) Office furniture, office equipment, and office fixtures;
- 23 (5) Coal piles and nuclear fuel;
- 24 (6) Land held for future use;
- 25 (7) Workshops, warehouses, office buildings and generating plant structures;
- 26 (8) Communication equipment not used for control of generation and distribution of
- 27 power;
- 28 (9) Roads, railroads, and bridges;
- 29 (10) Reservoirs, dams, and waterways;
- 30 (11) Land associated with other locally assessed property and all generating plant land[.];

31 **and**

32 **(12) Any real or tangible personal property which is used directly in the generation**

33 of electric power and which is placed in service after January 1, 2001.

2 **393.960. Sections 393.960 to 393.984 shall be known as "The Electric Reliability
and Economy Act of 2001".**

393.963. As used in sections 393.960 to 393.984, the following terms mean:

2 **(1) "Aggregate", the combination of the loads of eligible retail customers for the
3 purpose of purchasing electric supply service;**

4 **(2) "Commission", the Missouri public service commission;**

5 **(3) "Control area services", those services offered to suppliers of electric power and
6 energy within transmission or distribution systems to which a common automatic control
7 scheme is applied in order to match available electric power and energy with demand,
8 maintain scheduled interchange with other control areas, provide operating reserves, and
9 ensure the safe and coordinated operation of the transmission and distribution facilities
10 within a designated control area. This term includes those services designated as ancillary
11 services by the Federal Energy Regulatory Commission such as, but not limited to, reactive
12 supply and voltage control, regulation and frequency response, energy imbalance and the
13 provision of spinning and supplemental operating reserves;**

14 **(4) "Decommissioning costs", all reasonable costs and expenses that are expected
15 to be incurred or are actually incurred prior or subsequent to, and at the time of,
16 decommissioning in connection with the final entombment, decontamination,
17 dismantlement, removal, disposal or other disposition of a nuclear power plant and of the
18 structures, systems and components of that plant, or any radioactive or nonradioactive
19 materials associated with the plant, including all costs and expenses expected to be
20 incurred or actually incurred in connection with the preparation for decommissioning,
21 such as engineering and other planning expenses, and to be incurred prior to or after the
22 actual decommissioning occurs, such as physical security and radiation monitoring
23 expenses, less proceeds of insurance, salvage or resale of machinery, construction
24 equipment or apparatus, the cost of which is charged as a decommissioning expense in the
25 electric utility's accounts;**

26 **(5) "Distribution service", the transportation of electricity over a distribution
27 system and the associated metering, meter reading and billing services, extensions of
28 distribution lines, connection of retail customers to the distribution system and
29 disconnection of retail customers
30 from the distribution system;**

31 **(6) "Distribution system", the physical plant used to distribute electricity from a
32 transmission system or other point at which it enters the distribution system to the point
33 or points of delivery, as defined in the electric utility's tariffs, on a retail customer's**

34 premises, including all real property, personal property, facilities, structures, wires, meters
35 and appurtenances used for or in connection with, or to facilitate, the distribution of
36 electricity;

37 (7) "Electric utility", an investor-owned electrical corporation that is a public
38 utility providing utility services as of the effective date of sections 393.960 to 393.984 or a
39 successor corporation providing distribution service following such effective date;

40 (8) "Existing regulatory asset", those assets that were reported, consistent with
41 applicable accounting regulations, by an electric utility as regulatory assets or deferred
42 debits on its Form 1 report to the Federal Energy Regulatory Commission, prior to the
43 effective date of sections 393.960 to 393.984, and includes, without limitation, costs
44 associated with renegotiated or terminated fuel supply contracts, department of energy
45 enrichment facility assessments, deferred maintenance costs, deferred income taxes,
46 postretirement benefits, refinancing of debt, losses on reacquired debt, postoperational
47 costs reclassified from capital, recovery of impaired generation assets, changes in computer
48 hardware or software made to address year 2000 issues, merger costs, environmental costs
49 and phase-in of generation costs;

50 (9) "Retail customer", a single person or entity using electric power or energy for
51 end-use purposes at a single premises, not including aggregated loads of individual retail
52 customers. Each person or entity using electric power or energy for end-use purposes at
53 a single premises shall be deemed to be a separate retail customer even if its load is
54 aggregated with the loads of other retail customers;

55 (10) "Transmission service", the transportation of electricity over the transmission
56 system;

57 (11) "Transmission system", those facilities that are subject to the jurisdiction of
58 the Federal Energy Regulatory Commission and used to transmit electricity from the point
59 where the electricity is generated to the points at which the electricity enters the
60 distribution system, including all real property, personal property, facilities, structures,
61 wires, meters and appurtenances used for or in connection with or to facilitate the
62 transmission of electricity.

393.966. 1. An electric utility may, without obtaining any approval of the
2 commission other than that provided for in this subsection and notwithstanding the
3 requirements of sections 393.190, 393.200, 393.210, 393.240 and 393.250 or any other
4 provision of sections 393.960 to 393.984, or chapter 386, RSMo, or this chapter, or any rule
5 of the commission that would require such approval, implement a reorganization, and sell,
6 assign, lease or otherwise transfer all or substantially all of its generation plant and
7 generation-related assets to an affiliated entity at historical net book value and as part of

8 such transaction center into service agreements, power purchase agreements or other
9 agreements with the transferee or other affiliate, provided that the prices, terms and
10 conditions of any power purchase agreement shall be approved or allowed into effect by
11 the Federal Energy Regulatory Commission.

12 2. An electric utility that transfers all or substantially all of its generation plant and
13 generation-related assets to an affiliate pursuant to this section shall enter into a power
14 purchase agreement with its affiliate for an initial five-year term sufficient to cover its
15 actual retail load, not including the load associated with those customers served under the
16 tariff required by subsection 2 of section 393.972, plus no more than the maximum reserve
17 margin required by the regional reliability organization to which the electric utility belongs
18 or a successor organization. Such agreement shall provide for successive renewals for
19 minimum three-year terms at rates that are cost of service regulated by the Federal Energy
20 Regulatory Commission, and may, at the utility's option, allow for the competitive
21 procurement process set forth in section 393.981. If the Federal Energy Regulatory
22 Commission ceases to exist and no successor organization is established that would oversee
23 the rates established under the power purchase agreement required by this section, then
24 the commission shall have the authority to review the cost-of-service rates established by
25 the power purchase agreement required by this section to the extent such agreement
26 remains in effect.

27 3. An electric utility that is subject to the commission's jurisdiction which serves
28 retail customers in more than one state, may transfer to an affiliated entity pursuant to this
29 section an allocated portion of the utility's generation and generation-related assets, with
30 such allocation based upon the electric utility's Missouri monthly coincident peak load,
31 averaged over the most recent four-month summer period for which data is available and
32 no approvals of the commission thereafter shall be required for a transfer of the remaining
33 portions of the electric utility's generation or generation-related assets.

34 4. An electric utility that transfers generation assets pursuant to this section shall
35 comply with the rate provisions set forth in section 393.972.

393.969. 1. In order to implement a reorganization and sell, assign, lease or
2 otherwise transfer assets pursuant to section 393.966 and this section, an electric utility
3 shall provide the commission with at least thirty days' notice of the proposed
4 reorganization or transaction. The notice shall include the following information:

5 (1) A description of how the electric utility will continue to meet its service
6 obligations;

7 (2) A description of how the electric utility will meet the requirements of sections
8 393.972, 393.975 and 393.978;

9 **(3) A complete statement of the entries that the electric utility will make on its**
10 **books and records of account to implement the proposed reorganization or transaction**
11 **together with a certification from an independent certified public accountant that such**
12 **entries are in accord with generally accepted accounting principles; and**

13 **(4) A list of all federal approvals or approvals required from departments and**
14 **agencies of this state, other than the commission, that the electric utility has or will obtain**
15 **before implementing the reorganization or transaction.**

16 **2. The commission may, after notice and hearing, prohibit the proposed transaction**
17 **only if it finds that the proposed transaction will render the electric utility unable to**
18 **provide its tariffed services in a safe and reliable manner. If the commission has not issued**
19 **an order initiating a hearing on the proposed transaction within thirty days after the date**
20 **the electric utility's notice is filed, the transaction shall be deemed approved. In any**
21 **proceeding conducted by the commission pursuant to this section, intervention shall be**
22 **limited to parties with a direct interest in the transaction which is the subject of the hearing**
23 **and the office of public counsel. Any hearing initiated by the commission into the proposed**
24 **transaction shall be completed, and the commission's final order approving or prohibiting**
25 **the proposed transaction shall be entered, within ninety days after the date the electric**
26 **utility's notice was filed. The commission shall not in any subsequent proceeding, or**
27 **otherwise, review a reorganization or other transaction authorized by this section.**

28 **3. Notwithstanding the requirements of sections 393.190, 393.200, 393.210, 393.240**
29 **and 393.250 or any other provision of sections 393.960 to 393.984, or chapter 386, RSMo,**
30 **or this chapter, or any rule of the commission that would require such approval, no**
31 **commission approval shall be required for the sale, assignment, lease or other disposition,**
32 **including but not limited to a transfer of control, of transmission facilities by an electric**
33 **utility to an affiliated or unaffiliated regional transmission organization or similar entity**
34 **that is subject to the jurisdiction of the Federal Energy Regulatory Commission when such**
35 **sale, lease or other disposition has been approved by the Federal Energy Regulatory**
36 **Commission.**

37 **4. An affiliate of an electric utility that requires coal-fired or hydro-powered**
38 **generation plant and generation related assets pursuant to section 393.966 and this section**
39 **shall not subsequently transfer such coal-fired or hydro-powered generation assets to an**
40 **unaffiliated entity without first seeking and obtaining the approval of the commission as**
41 **provided in this subsection. Such approval may be obtained by filing a notice of the**
42 **proposed sale or transfer with the commission. The notice shall contain an analysis of the**
43 **effects of such transfer on the availability of power and any charges to be paid by the**
44 **electric utility under any purchase power agreement that is still in effect, and a list of all**

45 federal approvals or approvals required from departments and agencies of this state, other
46 than the commission, that the affiliate has or will obtain before implementing the transfer.
47 The commission may, after notice and hearing, prohibit the proposed transaction only if
48 it finds that completion of the transaction will result in a substantial adverse impact on the
49 rates paid or reliability of electric service received by retail customers in this state. If the
50 commission has not issued an order initiating a hearing on the proposed transaction within
51 thirty days after the date the affiliate's notice is filed, the transaction shall be deemed
52 approved. In any proceeding conducted by the commission pursuant to this section,
53 intervention shall be limited to parties with a direct interest in the transaction which is the
54 subject of the hearing and the office of public counsel. Any hearing initiated by the
55 commission into the proposed transaction shall be completed, and the commission's final
56 order approving or prohibiting the proposed transaction shall be entered, within ninety
57 days after the date the electric utility's notice was filed.

58 **5. Consistent with the requirements of the National Energy Policy Act of 1992, the**
59 **general assembly finds that the transfer of generation plant and generation-related assets**
60 **pursuant to the circumstances described in section 393.966 and this section and allowing**
61 **such generation assets to be eligible facilities as defined in 15 U.S.C. 79z-5a will benefit**
62 **consumers in this state, is in the public interest, and does not violate any provision of state**
63 **law. The general assembly further finds that the power purchase agreement required by**
64 **this section will benefit consumers and is in the public interest because it will help secure**
65 **reliable sources of supply for retail consumers now and in the future at a reasonable cost,**
66 **does not violate any state law, and does not provide the affiliate that is acquiring the**
67 **generation plant and generation-related facilities with any unfair competitive advantage**
68 **by virtue of its affiliation or association with the electric utility. The general assembly also**
69 **finds that it, and the commission which has advised it in this regard, has sufficient**
70 **regulatory authority, resources and access to the books and records of the electric utility**
71 **and its affiliates to make the above findings.**

72 **6. The provisions of sections 386.370, 393.130, 393.135, 393.140, 393.150, 393.155,**
73 **393.170, 393.180, 393.190, 393.200, 393.210, 393.220, 393.230, 393.240, 393.250, 393.275,**
74 **393.280, and subsections 2 to 5 of section 393.270 shall not apply to exempt wholesale**
75 **generators.**

393.972. 1. An electric utility that implements a reorganization, and sells, assigns,
2 **leases or otherwise transfers generation assets pursuant to sections 393.966 and 393.969**
3 **and files a notice of the proposed transfer under section 393.969 on or prior to December**
4 **31, 2001, shall not, prior to December 31, 2006, increase its rates that were in effect on the**
5 **effective date of sections 393.960 to 393.984. An electric utility that first files a notice to**

6 implement a reorganization, and sell, assign, lease or otherwise transfer generation assets
7 pursuant to section 393.966 after December 31, 2001, shall not increase its rates for tariffed
8 services that were in effect on the date such notice was filed prior to the end of the fifth
9 year after such notice was given, unless the electric utility also terminates the transaction
10 that was the subject of the notice. Notwithstanding any other provision of this chapter or
11 chapter 386, RSMo, the commission shall not, prior to December 31, 2001, and except as
12 provided in this section, initiate or, unless requested by the electric utility, authorize or
13 order any change by way of a decrease, restructuring or unbundling of the rates of an
14 electric utility. Thereafter the commission shall not, except as provided in this section,
15 initiate or, unless requested by the electric utility, authorize or order any change by way
16 of a decrease, restructuring or unbundling of the rates of an electric utility during any
17 period in which the electric utility is prohibited from increasing its rates pursuant to this
18 section. Nothing in this section shall preclude the commission from approving the
19 implementation of an alternative to rate of return regulation for one or more of the electric
20 utility's tariffed services that has been proposed by the electric utility and found by the
21 commission to be likely to result in identifiable benefits to retail customers.

22 2. An electric utility that has filed a notice to transfer all or substantially all of its
23 generation plant and generation- related assets pursuant to section 393.969 shall file with
24 the commission within thirty days of the filing of such notice a tariff that enables retail
25 customers that meet the criteria stated in subsection 3 of this section to arrange for
26 dedicated power supplies to be acquired and delivered by the utility to the retail customer
27 as set forth in subsection 4 of this section. The tariff shall include the provisions identified
28 in subsection 4 of this section and such other provisions as are deemed necessary for the
29 safe and reliable operation of the interconnected electric transmission system. The tariff
30 shall provide for an effective date of the later of January 1, 2002, or such date as the
31 electric utility's reorganization or transfer of assets pursuant to sections 393.966 and
32 393.969 is completed. An affiliate of the electric utility shall be allowed to contract for the
33 provision of such dedicated power supplies under the same terms and conditions applicable
34 to other participating suppliers. The commission may review the tariff required by this
35 subsection and may, following notice and hearing, modify such tariff to ensure
36 conformance with this section before or following its effective date, but shall allow such
37 tariff to take effect on the effective date if the commission's investigation is not complete.

38 3. The tariff required by subsection 2 of this section shall apply to those retail
39 customers that are served by the electric utility and that have a maximum hourly electric
40 demand of two megawatts or more as measured over the most recent twelve- month
41 calendar period for which data is available and that have a megawatt demand interval

42 meter or will install a megawatt demand interval meter prior to taking service under such
43 tariff. Eligible retail customers may aggregate loads with other eligible customers for the
44 purpose of procuring such dedicated power supplies. Retail customers taking service
45 under the tariff required by subsection 2 of this section shall take service under such tariff
46 for all of their electric load served by the electric
47 utility.

48 4. A tariff filed pursuant to subsection 2 of this section shall include:

49 (1) A requirement that any participating supplier of electric power and energy be
50 registered with the commission as provided in section 393.984;

51 (2) A requirement that the participating supplier enter into a power supply
52 agreement, which shall include commercially reasonable terms for credit and collection
53 with respect to such participating supplier's obligations under such agreement, with the
54 electric utility for the power and energy that will be purchased by the electric utility and
55 then delivered to the retail customer under the tariff, and arrange for all applicable
56 transmission and control area services;

57 (3) A requirement that the participating supplier provide to the electric utility in
58 electronic form the data necessary for billing customers taking service under the tariff
59 required by subsection 2 of this section in the format specified by the utility;

60 (4) The circumstances under which retail customers taking service under the tariff
61 required by subsection 2 of this section may take service under the utility's other tariffs,
62 which may at the utility's option include a notice period of up to thirty days prior to any
63 change, a term of service of at least one year or more for any return to the utility's other
64 tariffed services, and a provision that a retail customer may elect service under the tariff
65 required by subsection 2 of this section and return to the electric utility's other tariffed
66 services only one time prior to December 31, 2006 and may not return to the electric
67 utility's other tariffed services after December 31, 2006;

68 (5) A provision that allows a retail customer taking service under the tariff
69 required by subsection 2 of this section to procure power and energy directly from the
70 electric utility on a temporary basis in the event that the customer's dedicated source of
71 supply under the tariff required by subsection 2 of this section fails, the electric utility is
72 able to procure a temporary source of supply, and the customer is not yet eligible to, or
73 chooses not to, return to the utility's other tariffed services; and requires the retail
74 customer to pay to the electric utility all of the costs it incurs in providing the temporary
75 supply service to the retail customer, including a reasonable broker's fee to compensate the
76 utility for the service of arranging such supply; and

77 (6) Charges for distribution service and, where applicable, transmission services

78 provided to such retail customers, and decommissioning charges. The charges for
79 distribution services shall be based upon the electric utility's direct and indirect costs of
80 providing unbundled distribution service, including the electric utility's then current cost
81 of capital, implementation costs, existing regulatory assets, without regard to whether or
82 not such regulatory assets are distribution related, and billing and metering costs
83 associated with service under the tariff required by subsection 2 of this section. The
84 charges shall also include decommissioning costs where such costs are not recovered
85 through a separate, unbundled charge. Transmission services shall be provided at the
86 same prices, terms and conditions set forth in the electric utility's applicable tariff as
87 approved or allowed into effect by the Federal Energy Regulatory Commission.

88 5. Retail customers receiving service under the tariff required by subsection 2 of
89 this section shall pay to the electric utility a basic rate consisting of the applicable
90 distribution service charges, transmission service charges, decommissioning charges,
91 contract rates for power provided by the retail customer's dedicated supplier or where
92 such power is not provided the costs for temporary supply as set forth subdivision (4) of
93 subsection 4 of this section, and applicable taxes, franchise fees or similar charges. The
94 electric utility shall apply any partial payments received on bills sent to retail customers
95 receiving service under the tariff required by subsection 2 of this section first to the charges
96 for distribution service and decommissioning, and next to transmission service. In all other
97 respects the electric utility's other procedures for credit and collection, and disconnection,
98 shall apply to such retail customers.

99 6. The electric utility may, with the consent of a retail customer, issue bills and
100 receive payment in electronic format, and shall not in such instance be required to issue
101 a duplicate paper bill. The commission may adopt rules and regulations governing
102 electronic billing and payment, but its failure to do so shall not preclude any customer
103 from requesting, and the electric utility from providing, electronic billing and payment.

104 7. The commission shall, prior to December 31, 2001, adopt rules to protect the
105 confidentiality of the data provided by participating suppliers to the utility pursuant to this
106 section.

107 8. An electric utility may at its discretion conduct one or more experiments for the
108 provision or billing of services on a consolidated or aggregated basis, for the provision of
109 real-time pricing, or other billing or pricing experiments, and may include experimental
110 programs offered to groups of retail customers possessing common attributes as defined
111 by the electric utility, such as the members of an organization that was established to serve
112 a well-defined industry group, companies having multiple sites, or closely located or
113 affiliated buildings, provided that such groups exist for a purpose other than obtaining

energy services. The offering of such a program by an electric utility to retail customers participating in the program, and the participation by those customers in the program, shall not create any right in any other retail customer or group of customers to participate in the same or a similar program. The commission shall allow such experiments to go into effect upon the filing by the electric utility of a statement describing the program, and shall not otherwise regulate the rates, terms or conditions associated with an experimental program but may require that the utility file annual reports detailing the costs and effects of such experiments.

9. The commission shall have jurisdiction over a heating company serving only commercial customers in an area served by an electric utility with a tariff in effect pursuant to subsection 2 of this section for purposes of safety only. Such a heating company may establish and change rates and conditions of service without the approval of the commission.

393.975. In the event of a sale, purchase, or any other transfer of ownership pursuant to sections 393.966 and 393.969, of one or more Missouri divisions or business units, or generating stations or generating units, the electric utility's contract or agreements with the acquiring entity shall require that the entity or persons hire a sufficient number of nonsupervisory employees to operate and maintain the stations, division or unit by initially making offers of employment to the nonsupervisory employees of the electric utility's division, business unit, generating station or generating unit at no less than the wage rates, and substantially equivalent fringe benefits and terms and conditions of employment that are in effect at the time of transfer of ownership of said division, business unit, generating station or generating units. Such wage rates and substantially equivalent fringe benefits and terms and conditions of employment shall continue for at least thirty months from the time of such transfer of ownership unless the parties mutually agree to different terms and conditions of employment within that thirty-month period. The utility shall offer a transition plan to those nonsupervisory employees who are not offered jobs by the acquiring entity because that entity has a need for fewer workers. If there is litigation concerning the sale or other transfer of ownership of the electric utility's divisions, business units, generating station or generating units, the thirty-month period will begin on the date the acquiring entity or persons take control or management of the divisions, business units, generating station or generating units of the electric utility.

393.978. Each electric utility owning an interest in, or retaining responsibility as a matter of contract or statute for, the decommissioning costs of one or more nuclear power plants and which is transferring its interest in such plants pursuant to sections 393.966 and

4 393.969, shall recover such costs through unbundled charges or through the electric
5 utility's bundled rates, and shall deposit all amounts collected in its nuclear power plant
6 decommissioning trust fund.

393.981. 1. An electric utility that enters into a power purchase agreement with an
2 affiliated entity pursuant to sections 393.966 and 393.969 may attempt to competitively
3 procure power for any portion of its retail load in this state at a cost less than that available
4 under the power purchase agreement and at equivalent levels of reliability, to be supplied
5 prior to December 31, 2006. On or before December 31, 2005, and at any time thereafter,
6 such an electric utility may file a plan with the commission to competitively procure power
7 for all or a portion of its retail load. The plan shall address how the proposed competitive
8 procurement of power will affect the utility's future acquisition of power under, or
9 renewals of, the power purchase agreement entered into under sections 393.966 and
10 393.969. The commission shall review the plan and enter a final order approving or
11 rejecting the plan within ninety days after the date that the plan was filed. The commission
12 shall approve the plan if it finds that the plan is consistent with the safe and reliable
13 provision of the electric utility's tariffed services and that its implementation is likely to
14 result in identifiable benefits to retail customers in the state. An electric utility that
15 competitively procures power for the benefit of its customers is entitled to receive
16 reasonable compensation for its efforts, including a reasonable broker's fee. The
17 investment by an electric utility in renewable resources, or distributed generation or
18 cogeneration located in its service area, shall be presumed to result in benefits to retail
19 customers in this state, although such presumption may be rebutted by substantial and
20 competent evidence to the contrary.

21 2. In evaluating competitive alternatives for power supply, the electric utility may
22 consider such factors as price, including rewards or penalties and other direct or indirect
23 costs to the utility; dispatchability; availability; reliability; fuel diversity; flexibility;
24 financial ability of the providing entity, and other factors to the extent relevant and
25 applicable. An affiliate of the electric utility may participate in the competitive
26 procurement processes authorized by this section on the same terms and conditions that
27 apply to others participating in that process.

28 3. Neither an electric utility that transfers generation plant or generation-related
29 assets pursuant to sections 393.966 and 393.969, nor an affiliate that acquires such
30 generation plant or generation-related assets shall, directly or indirectly, be obligated or
31 required by the commission to build new generation plants to supply retail customers.

393.984. 1. Any supplier that will be delivering electricity to an electric utility
2 pursuant to the tariff described in section 393.972 shall first register with the commission

3 by filing a written statement of its intent to deliver such electricity, and shall maintain such
4 registration in order to continue delivering electricity to the electric utility pursuant to such
5 tariff.

6 2. A supplier that is registering with the commission shall provide the following
7 information, and update such information when and as requested by the commission:

8 (1) Corporate name, and address, and most recent annual report;

9 (2) The name and address of any affiliate of the applicant that is engaged in the
10 provision of electric supply service, transmission service, distribution service, or public
11 utility service similar to traditional utility services, in this or any other state;

12 (3) A bond or other demonstration of financial capability to satisfy potential claims
13 or expenses that can reasonably be anticipated to occur as part of the applicant's
14 operations under its certificate, including a failure to honor contractual commitments. The
15 adequacy of the bond or demonstration shall be determined by the commission from time
16 to time. In determining the adequacy of the bond or demonstration, the commission shall
17 consider the extent of the services to be offered, the size of the applicant, and the size of the
18 load to be served, with the objective of ensuring that the commission's financial
19 requirements do not unreasonably erect barriers to participation;

20 (4) A description of the applicant's technical, financial and managerial resources
21 and abilities to comply with all applicable federal, state, regional and industry statutes,
22 rules, policies, practices and procedures for the provision of supply and for the use,
23 operation and maintenance of the safety, integrity and reliability, of the interconnected
24 electric transmission system; and

25 (5) Evidence that the applicant has an office in this state and an agent for service
26 of process.

27 3. The commission may require periodic updates to the information required by
28 this section, and may revoke the registration of any supplier that fails to provide such
29 updates, or is found by the commission, after notice and hearing, to not possess the
30 financial, technical or managerial abilities to meet its contractual commitments or comply
31 with all applicable federal, state, regional and industry statutes, rules, policies, practices
32 and procedures for the use, operation and maintenance of the safety, integrity and
33 reliability of the interconnected electric transmission system; or is found to be pricing
34 below cost or market so as to avoid any license tax, franchise fee, sales tax or similar tax
35 or charge that would otherwise apply to charges billed by the electric utility.

36 4. On or before January 1, 2002, the commission shall adopt a rule or rules setting
37 forth in detail the form and required contents for the written statement of intent required
38 for registration, and may as part of such rule assess a fee for registration sufficient to cover

39 **its administrative costs, expenses, and equipment associated with implementing this**
40 **section.**