

FIRST REGULAR SESSION  
[TRULY AGREED TO AND FINALLY PASSED]  
SENATE SUBSTITUTE FOR  
SENATE COMMITTEE SUBSTITUTE FOR

# HOUSE BILL NO. 208

## 92ND GENERAL ASSEMBLY

0941S.14T

2003

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### AN ACT

To repeal sections 91.030, 386.050, 386.210, 386.756, 392.200, 393.110, and 393.310, RSMo, and to enact in lieu thereof sixteen new sections relating to the public service commission, with an emergency clause for certain sections.

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

Section A. Sections 91.030, 386.050, 386.210, 386.756, 392.200, 393.110, and 393.310, RSMo, are repealed and sixteen new sections enacted in lieu thereof, to be known as sections 91.026, 91.030, 386.050, 386.135, 386.210, 386.756, 392.200, 393.110, 393.310, 393.1000, 393.1003, 393.1006, 393.1009, 393.1012, 393.1015, and 1, to read as follows:

**91.026. 1. As used in this section, the following terms mean:**

- 2 (1) "Commission", the Missouri public service commission;
- 3 (2) "Aluminum smelting facility", a facility whose primary industry is the smelting  
4 of aluminum and primary metals, Standard Industrial Classification Code 3334, is located  
5 in a county of the second classification, which has used over three million megawatt hours  
6 of electricity during a calendar year, and has had electrical service provided to said facility  
7 in the past, in part or whole, by a municipally owned utility and, in part or whole, by an  
8 electric generating cooperative owned by rural electric cooperatives;
- 9 (3) "Delivery services", transmission, distribution, or metering of electric power  
10 and energy or services ancillary thereto or related services;
- 11 (4) "Municipally owned utility", a utility as defined in subdivision (1) of subsection  
12 1 of section 91.025;
- 13 (5) "Local electric service utility", an electrical corporation engaged in the  
14 furnishing of local electric service to consumers under a certificate of convenience and

15 necessity issued by the commission, any municipal electric distribution system or electric  
16 cooperative.

17       **2. Notwithstanding any provisions of law to the contrary, any aluminum smelting**  
18 **facility shall have the right to purchase and contract to purchase electric power and energy**  
19 **and delivery services from any provider, wherever found or located, at whatever rates or**  
20 **charges as contracted for, and such periods or times as is needed or necessary or**  
21 **convenient for the operation of such aluminum smelting facility and for no other purpose,**  
22 **notwithstanding any past circumstances of supply. Any aluminum smelting facility**  
23 **purchasing or contracting to purchase electric power and energy pursuant to this section**  
24 **shall not resell such electric power and energy to any party except the original providers**  
25 **of such electric power and energy.**

26       **3. Notwithstanding the provisions of section 91.025, section 393.106, RSMo, and**  
27 **section 394.315, RSMo, to the contrary, any provider of such electric power and energy**  
28 **and delivery services, whether or not otherwise under Missouri regulatory jurisdiction,**  
29 **shall have the right to transact for and sell electric power and energy and delivery services**  
30 **to an aluminum smelting facility. Any transactions or contracts pursuant to this section**  
31 **for electric power and energy and delivery services shall not be subject to the jurisdiction**  
32 **of the commission with regard to the determination of rates.**

33       **4. When current electric power and energy is being supplied in part or in whole by**  
34 **a municipally owned utility and in part or whole by an electric generating cooperative**  
35 **owned by rural electric cooperatives and not under any contract authorized pursuant to**  
36 **this section, a replacement contract pursuant to the provisions of subsections 2 and 3 of this**  
37 **section shall provide for all of the electric power and energy and delivery services**  
38 **requirements of the aluminum smelter and shall meet the following criteria:**

39       **(1) The aluminum smelting facility's change of supplier shall have no negative**  
40 **financial impact on any past supplier or suppliers or to other electricity customers of such**  
41 **supplier or suppliers;**

42       **(2) The supply arrangements made by the aluminum smelting facility when**  
43 **operated in coordination with the local electric infrastructure shall not reduce the**  
44 **reliability of service to other customers or the safety of any person;**

45       **(3) The aluminum smelting facility's change of electric supplier shall not cause a**  
46 **reduction in tax revenue to the state of Missouri or any political subdivision;**

47       **(4) No billing or metering functions of any municipally owned utility will be**  
48 **changed or affected as a result of a change of electric supplier by such aluminum smelting**  
49 **facility.**

50           **5. No local electric service utility provider of electric power and energy or delivery**  
51 **services shall have any obligation to supply or deliver backup, peaking or emergency**  
52 **power to a aluminum smelting facility exercising its rights under this section, nor liability**  
53 **for inability or failure to provide such power, except as may be established by written**  
54 **contract.**

55           **6. Once an aluminum smelting facility has purchased electric power pursuant to**  
56 **its rights pursuant to this section, no past supplier of energy and related services shall have**  
57 **any obligation to provide electric power and energy and delivery services to such**  
58 **aluminum smelting facility except as may be established by written contract.**

59           **7. The provisions of this section recognize highly unique circumstances of**  
60 **aluminum smelting facilities and are not to be interpreted as condoning or conceding the**  
61 **suitability of retail electric restructuring for any customer or class of customers in the state**  
62 **of Missouri.**

          91.030. Any city, town or village in this state, having authority to maintain and operate  
2 an electric light and power plant, may procure electric current **and ancillary services** for that  
3 purpose from any other city, owning and operating such plant, **or other lawful supplier** and to  
4 that end may enter into a contract therefor with such city **or other supplier** having such plant  
5 **for such period and upon such terms as may be agreed by the contracting parties solely on**  
6 **the approval by the governing board or council of such municipality owned or operated**  
7 **electric power system or by its duly authorized representative without further regulatory**  
8 **or public approval, notwithstanding any provisions of law to the contrary.**

          386.050. **1.** The commission shall consist of five members who shall be appointed by  
2 the governor, with the advice and consent of the senate, and one of whom shall be designated by  
3 the governor to be [chairman] **chair** of [said] **the** commission. Each commissioner, at the time  
4 of [his] **the commissioner's** appointment and qualification, shall be a resident of the state of  
5 Missouri, and shall have resided in [said] **the** state for a period of at least five years next  
6 preceding [his] **the** appointment and qualification, and [he] shall also be a qualified voter therein  
7 and not less than twenty-five years of age. Upon the expiration of each of the terms of office of  
8 the first commissioners, the term of office of each commissioner thereafter appointed shall be  
9 six years from the time of [his] **the commissioner's** appointment and qualification and until his  
10 successor shall qualify. Vacancies in [said] **the** commission shall be filled by the governor for  
11 the unexpired term.

**386.135. 1. The commission shall have an independent technical advisory staff of**  
2 **up to six full time employees. The advisory staff shall have expertise in accounting,**  
3 **economics, finance, engineering/utility operations, law, or public policy.**

4           **2. In addition, each commissioner shall also have the authority to retain one**  
5 **personal advisor, who shall be deemed a member of the technical advisory staff. The**  
6 **personal advisors will serve at the pleasure of the individual commissioner whom they**  
7 **serve and shall possess expertise in one or more of the following fields: accounting,**  
8 **economics, finance, engineering/utility operations, law, or public policy.**

9           **3. The commission shall only hire technical advisory staff pursuant to subsections**  
10 **1 and 2 of this section if there is a corresponding elimination in comparable staff positions**  
11 **for commission staff to offset the hiring of such technical advisory staff on a cost neutral**  
12 **basis. Such technical advisory staff shall be hired on or before July 1, 2005.**

13           **4. It shall be the duty of the technical advisory staff to render advice and assistance**  
14 **to the commissioners and the commission's hearing officers on technical matters within**  
15 **their respective areas of expertise that may arise during the course of proceedings before**  
16 **the commission.**

17           **5. The technical advisory staff shall also update the commission and the**  
18 **commission's hearing officers periodically on developments and trends in public utility**  
19 **regulation, including updates comparing the use, nature, and effect of various regulatory**  
20 **practices and procedures as employed by the commission and public utility commissions**  
21 **in other jurisdictions.**

22           **6. Each member of the technical advisory staff shall be subject to any applicable**  
23 **ex parte or conflict of interest requirements in the same manner and to the same degree as**  
24 **any commissioner, provided that neither any person regulated by, appearing before, or**  
25 **employed by the commission shall be permitted to offer such member a different**  
26 **appointment or position during that member's tenure on the technical advisory staff.**

27           **7. No employee of a company or corporation regulated by the public service**  
28 **commission, no employee of the office of public counsel or the public counsel, and no staff**  
29 **members of either the utility operations division or utility services division, who, were an**  
30 **employee or staff member on, during the two years immediately preceding, or anytime**  
31 **after August 28, 2003, may be a member of the commission's technical advisory staff for**  
32 **two years following the termination of their employment with the corporation, office of**  
33 **public counsel or commission staff member.**

34           **8. The technical advisory staff shall never be a party to any case before the**  
35 **commission.**

386.210. 1. The commission may confer in person, or by correspondence, by attending  
2 conventions, or in any other way, with the members of **the public**, any public utility or similar  
3 commission of **this and** other states and the United States of America, or any official, agency  
4 or instrumentality thereof, on any matter relating to the performance of its duties.

5           **2. Such communications may address any issue that at the time of such**  
6 **communication is not the subject of a case that has been filed with the commission.**

7           **3. Such communications may also address substantive or procedural matters that**  
8 **are the subject of a pending filing or case in which no evidentiary hearing has been**  
9 **scheduled, provided that the communication:**

10           **(1) Is made at a public agenda meeting of the commission where such matter has**  
11 **been posted in advance as an item for discussion or decision;**

12           **(2) Is made at a forum where representatives of the public utility affected thereby,**  
13 **the office of public counsel, and any other party to the case are present; or**

14           **(3) If made outside such agenda meeting or forum, is subsequently disclosed to the**  
15 **public utility, the office of the public counsel, and any other party to the case in accordance**  
16 **with the following procedure:**

17           **(a) If the communication is written, the person or party making the communication**  
18 **shall no later than the next business day following the communication, file a copy of the**  
19 **written communication in the official case file of the pending filing or case and serve it**  
20 **upon all parties of record;**

21           **(b) If the communication is oral, the party making the oral communication shall**  
22 **no later than the next business day following the communication file a memorandum in the**  
23 **official case file of the pending case disclosing the communication and serve such**  
24 **memorandum on all parties of record. The memorandum must contain a summary of the**  
25 **substance of the communication and not merely a listing of the subjects covered.**

26           **4. Nothing in this section or any other provision of law shall be construed as**  
27 **imposing any limitation on the free exchange of ideas, views, and information between any**  
28 **person and the commission or any commissioner, provided that such communications**  
29 **relate to matters of general regulatory policy and do not address the merits of the specific**  
30 **facts, evidence, claims, or positions presented or taken in a pending case unless such**  
31 **communications comply with the provisions of subsection 3 of this section.**

32           **5. The commission and any commissioner may also advise any member of the**  
33 **general assembly or other governmental official of the issues or factual allegations that are**  
34 **the subject of a pending case, provided that the commission or commissioner does not**  
35 **express an opinion as to the merits of such issues or allegations, and may discuss in a public**  
36 **agenda meeting with parties to a case in which an evidentiary hearing has been scheduled,**  
37 **any procedural matter in such case or any matter relating to a unanimous stipulation or**  
38 **agreement resolving all of the issues in such case.**

39           **[2.] 6. The commission may enter into and establish fair and equitable cooperative**  
40 **agreements or contracts with or act as an agent or licensee for the United States of America, or**

41 any official, agency or instrumentality thereof, or any public utility or similar commission of  
42 other states, that are proper, expedient, fair and equitable and in the interest of the state of  
43 Missouri and the citizens thereof, for the purpose of carrying out its duties [under] **pursuant to**  
44 section 386.250 as limited and supplemented by section 386.030 and to that end the commission  
45 may receive and disburse any contributions, grants or other financial assistance as a result of or  
46 pursuant to such agreements or contracts. Any contributions, grants or other financial assistance  
47 so received shall be deposited in the public service commission utility fund or the state highway  
48 commission fund depending upon the purposes for which they are received.

49 [3.] 7. The commission may make joint investigations, hold joint hearings within or  
50 without the state, and issue joint or concurrent orders in conjunction or concurrence with any  
51 railroad, public utility or similar commission, of other states or the United States of America, or  
52 any official, agency or any instrumentality thereof, except that in the holding of such  
53 investigations or hearings, or in the making of such orders, the commission shall function under  
54 agreements or contracts between states or under the concurrent power of states to regulate  
55 interstate commerce, or as an agent of the United States of America, or any official, agency or  
56 instrumentality thereof, or otherwise.

386.756. 1. Except by an affiliate, a utility may not engage in HVAC services, unless  
2 otherwise provided in subsection 7 or subsection 8 of this section.

3 2. No affiliate or utility contractor may use any vehicles, service tools, instruments,  
4 employees, or any other utility assets, the cost of which are recoverable in the regulated rates for  
5 utility service, to engage in HVAC services unless the utility is compensated for the use of such  
6 assets at cost to the utility.

7 3. A utility may not use or allow any affiliate or utility contractor to use the name of such  
8 utility to engage in HVAC services unless the utility, affiliate or utility contractor discloses, in  
9 plain view and in bold type on the same page as the name is used on all advertisements or in  
10 plain audible language during all solicitations of such services, a disclaimer that states the  
11 services provided are not regulated by the public service commission.

12 4. A utility may not engage in or assist any affiliate or utility contractor in engaging in  
13 HVAC services in a manner which subsidizes the activities of such utility, affiliate or utility  
14 contractor to the extent of changing the rates or charges for the utility's regulated services above  
15 or below the rates or charges that would be in effect if the utility were not engaged in or assisting  
16 any affiliate or utility contractor in engaging in such activities.

17 5. Any affiliates or utility contractors engaged in HVAC services shall maintain accounts,  
18 books and records separate and distinct from the utility.

19           6. The provisions of this section shall apply to any affiliate or utility contractor engaged  
20 in HVAC services that is owned, controlled or under common control with a utility providing  
21 regulated utility service in this state or any other state.

22           7. A utility engaging in HVAC services in this state five years prior to August 28, 1998,  
23 may continue providing, to existing as well as new customers, the same type of services as those  
24 provided by the utility five years prior to August 28, 1998. **The provisions of this section only**  
25 **apply to the area of service which the utility was actually supplying service to on a regular**  
26 **basis prior to August 28, 1993. The provisions of this section shall not apply to any**  
27 **subsequently expanded areas of service made by a utility through either existing affiliates**  
28 **or subsidiaries or through affiliates or subsidiaries purchased after August 28, 1993, unless**  
29 **such services were being provided in the expanded area prior to August 28, 1993.**

30           8. The provisions of this section shall not be construed to prohibit a utility from providing  
31 emergency service, providing any service required by law or providing a program pursuant to an  
32 existing tariff, rule or order of the public service commission.

33           9. A utility that violates any provision of this section is guilty of a civil offense and may  
34 be subject to a civil penalty of up to twelve thousand five hundred dollars for each violation. **The**  
35 **attorney general may enforce the provisions of this section pursuant to any powers granted**  
36 **to him or her pursuant to any relevant provisions provided by Missouri statutes or the**  
37 **Missouri Constitution.**

38           **10. Any utility claiming an exemption as provided in subsection 7 of this section**  
39 **shall comply with all applicable state and local laws, ordinances or regulations relating to**  
40 **the installation or maintenance of HVAC systems including all permit requirements. A**  
41 **continuing pattern of failure to comply with said requirements shall provide the basis for**  
42 **a finding by any court of competent jurisdiction or the public service commission that the**  
43 **utility has waived its claim of exemption pursuant to subsection 7 of this section.**

392.200. 1. Every telecommunications company shall furnish and provide with respect  
2 to its business such instrumentalities and facilities as shall be adequate and in all respects just  
3 and reasonable. All charges made and demanded by any telecommunications company for any  
4 service rendered or to be rendered in connection therewith shall be just and reasonable and not  
5 more than allowed by law or by order or decision of the commission. Every unjust or  
6 unreasonable charge made or demanded for any such service or in connection therewith or in  
7 excess of that allowed by law or by order or decision of the commission is prohibited and  
8 declared to be unlawful.

9           2. No telecommunications company shall directly or indirectly or by any special rate,  
10 rebate, drawback or other device or method charge, demand, collect or receive from any person  
11 or corporation a greater or less compensation for any service rendered or to be rendered with

12 respect to telecommunications or in connection therewith, except as authorized in this chapter,  
13 than it charges, demands, collects or receives from any other person or corporation for doing a  
14 like and contemporaneous service with respect to telecommunications under the same or  
15 substantially the same circumstances and conditions. Promotional programs for  
16 telecommunications services may be offered by telecommunications companies for periods of  
17 time so long as the offer is otherwise consistent with the provisions of this chapter and approved  
18 by the commission. Neither this subsection nor subsection 3 of this section shall be construed  
19 to prohibit an economy rate telephone service offering. This section and section 392.220 to the  
20 contrary notwithstanding, the commission is authorized to approve tariffs filed by local exchange  
21 telecommunications companies which elect to provide reduced charges for residential  
22 telecommunications connection services pursuant to the lifeline connection assistance plan as  
23 promulgated by the federal communications commission. Eligible subscribers for such  
24 connection services shall be those as defined by participating local exchange telecommunications  
25 company tariffs.

26         3. No telecommunications company shall make or give any undue or unreasonable  
27 preference or advantage to any person, corporation or locality, or subject any particular person,  
28 corporation or locality to any undue or unreasonable prejudice or disadvantage in any respect  
29 whatsoever except that telecommunications messages may be classified into such classes as are  
30 just and reasonable, and different rates may be charged for the different classes of messages.

31         4. (1) No telecommunications company may define a telecommunications service as a  
32 different telecommunications service based on the geographic area or other market segmentation  
33 within which such telecommunications service is offered or provided, unless the  
34 telecommunications company makes application and files a tariff or tariffs which propose relief  
35 from this subsection. Any such tariff shall be subject to the provisions of sections 392.220 and  
36 392.230 and in any hearing thereon the burden shall be on the telecommunications company to  
37 show, by clear and convincing evidence, that the definition of such service based on the  
38 geographic area or other market within which such service is offered is reasonably necessary to  
39 promote the public interest and the purposes and policies of this chapter.

40         (2) It is the intent of this act to bring the benefits of competition to all customers and to  
41 ensure that incumbent and alternative local exchange telecommunications companies have the  
42 opportunity to price and market telecommunications services to all prospective customers in any  
43 geographic area in which they compete. To promote the goals of the federal  
44 Telecommunications Act of 1996, for an incumbent local exchange telecommunications  
45 company in any exchange where an alternative local exchange telecommunications company has  
46 been certified and is providing basic local telecommunications services or switched exchange  
47 access services, or for an alternative local exchange telecommunications company, the

48 commission shall review and approve or reject, within forty-five days of filing, tariffs for  
49 proposed different services as follows:

50 (a) For services proposed on an exchange-wide basis, it shall be presumed that a tariff  
51 which defines and establishes prices for a local exchange telecommunications service or  
52 exchange access service as a different telecommunications service in the geographic area, no  
53 smaller than an exchange, within which such local exchange telecommunications service or  
54 exchange access service is offered is reasonably necessary to promote the public interest and the  
55 purposes and policies of this chapter;

56 (b) For services proposed in a geographic area smaller than an exchange or other market  
57 segmentation within which or to whom such telecommunications service is proposed to be  
58 offered, a local exchange telecommunications company may petition the commission to define  
59 and establish a local exchange telecommunications service or exchange access service as a  
60 different local exchange telecommunications service or exchange access service. The  
61 commission shall approve such a proposal if it finds, based upon clear and convincing evidence,  
62 that such service in a smaller geographic area or such other market segmentation is in the public  
63 interest and is reasonably necessary to promote competition and the purposes of this chapter.  
64 Upon approval of such a smaller geographic area or such other market segmentation for a  
65 different service for one local exchange telecommunications company, all other local exchange  
66 telecommunications companies certified to provide service in that exchange may file a tariff to  
67 use such smaller geographic area or such other market segmentation to provide that service;

68 (c) For proposed different services described in paragraphs (a) and (b) of this  
69 subdivision, the local exchange telecommunications company which files a tariff to provide such  
70 service shall provide the service to all similarly situated customers, upon request in accordance  
71 with that company's approved tariff, in the exchange or geographic area smaller than an exchange  
72 or such other market segmentation for which the tariff was filed, and no price proposed for such  
73 service by an incumbent local exchange telecommunications company, other than for a  
74 competitive service, shall be lower than its long run incremental cost, as defined in section  
75 386.020, RSMo;

76 (3) The commission, on its own motion or upon motion of the public counsel, may by  
77 order, after notice and hearing, define a telecommunications service offered or provided by a  
78 telecommunications company as a different telecommunications service dependent upon the  
79 geographic area or other market within which such telecommunications service is offered or  
80 provided and apply different service classifications to such service only upon a finding, based  
81 on clear and convincing evidence, that such different treatment is reasonably necessary to  
82 promote the public interest and the purposes and policies of this chapter.

83           5. No telecommunications company may charge a different price per minute or other unit  
84 of measure for the same, substitutable, or equivalent interexchange telecommunications service  
85 provided over the same or equivalent distance between two points without filing a tariff for the  
86 offer or provision of such service pursuant to sections 392.220 and 392.230. In any proceeding  
87 under sections 392.220 and 392.230 wherein a telecommunications company seeks to charge a  
88 different price per minute or other unit of measure for the same, substitutable, or equivalent  
89 interexchange service, the burden shall be on the subject telecommunications company to show  
90 that such charges are in the public interest and consistent with the provisions and purposes of this  
91 chapter. The commission may modify or prohibit such charges if the subject telecommunications  
92 company fails to show that such charges are in the public interest and consistent with the  
93 provisions and purposes of this chapter. This subsection shall not apply to reasonable price  
94 discounts based on the volume of service provided, so long as such discounts are  
95 nondiscriminatory and offered under the same rates, terms, and conditions throughout a  
96 telecommunications company's certificated or service area.

97           6. Every telecommunications company operating in this state shall receive, transmit and  
98 deliver, without discrimination or delay, the conversations and messages of every other  
99 telecommunications company with whose facilities a connection may have been made.

100           7. The commission shall have power to provide the limits within which  
101 telecommunications messages shall be delivered without extra charge.

102           8. Customer specific pricing is authorized for dedicated, nonswitched, private line and  
103 special access services and for central office-based switching systems which substitute for  
104 customer premise, private branch exchange (PBX) services, provided such customer specific  
105 pricing shall be equally available to incumbent and alternative local exchange  
106 telecommunications companies.

107           9. This act shall not be construed to prohibit the commission, upon determining that it  
108 is in the public interest, from altering local exchange boundaries, provided that the incumbent  
109 local exchange telecommunications company or companies serving each exchange for which the  
110 boundaries are altered provide notice to the commission that the companies approve the  
111 alteration of exchange boundaries.

112           **10. Notwithstanding any other provision of this section, every telecommunications**  
113 **company is authorized to offer term agreements of up to five years on any of its**  
114 **telecommunications services.**

115           **11. Notwithstanding any other provision of this section, every telecommunications**  
116 **company is authorized to offer discounted rates or other special promotions on any of its**  
117 **telecommunications services to any new and/or former customers.**

393.110. 1. Sections 393.110 to 393.285 shall apply to the manufacture and furnishing of gas for light, heat or power and the furnishing of natural gas for light, heat or power, and the generation, furnishing and transmission of electricity for light, heat or power, the supplying and distributing of water for any purpose whatsoever, and the furnishing of a sewer system for the collection, carriage, treatment or disposal of sewage for municipal, domestic or other beneficial or necessary purpose.

2. **Notwithstanding any provision in chapter 386, RSMo, or this chapter to the contrary, the public service commission shall not have jurisdiction over the rates, financing, accounting, or management of any electrical corporation which is required by its bylaws to operate on the not-for-profit cooperative business plan, with its consumers who receive service as the stockholders of such corporation, and which holds a certificate of public convenience and necessity to serve a majority of its consumer-owners in counties of the third classification as of August 28, 2003. Nothing in this section shall be construed as amending or superseding the commission's authority granted in subsection 1 of section 386.310, RSMo, in section 393.106, and sections 386.800 and 394.312, RSMo.**

393.310. 1. This section shall only apply to gas corporations as defined in section 386.020, RSMo. This section shall not affect any existing laws and shall only apply to the program established pursuant to this section.

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

(1) "Aggregate", the combination of natural gas supply and transportation services, including storage, requirements of eligible school entities served through a Missouri gas corporation's delivery system;

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

(3) "Eligible school entity" shall include any seven-director, urban or metropolitan school district as defined pursuant to section 160.011, RSMo, and shall also include, one year after July 11, 2002, and thereafter, any school for elementary or secondary education situated in this state, whether a charter, private, or parochial school or school district.

3. Each Missouri gas corporation shall file with the commission, by August 1, 2002, a set of experimental tariffs applicable the first year to public school districts and applicable to all school districts, whether charter, private, public, or parochial, thereafter.

4. The tariffs required pursuant to subsection 3 of this section shall, at a minimum:

(1) Provide for the aggregate purchasing of natural gas supplies and pipeline transportation services on behalf of eligible school entities in accordance with aggregate purchasing contracts negotiated by and through a not-for-profit school association;

(2) Provide for the resale of such natural gas supplies, including related transportation service costs, to the eligible school entities at the gas corporation's cost of purchasing of such gas

22 supplies and transportation, plus all applicable distribution costs, plus an aggregation and  
23 balancing fee to be determined by the commission, not to exceed four-tenths of one cent per  
24 therm delivered during the first year; and

25 (3) Not require telemetry or special metering, except for individual school meters over  
26 one hundred thousand therms annually.

27 5. The commission may suspend the tariff as required pursuant to subsection 3 of this  
28 section for a period ending no later than November 1, 2002, and shall approve such tariffs upon  
29 finding that implementation of the aggregation program set forth in such tariffs will not have any  
30 negative financial impact on the gas corporation, its other customers or local taxing authorities,  
31 and that the aggregation charge is sufficient to generate revenue at least equal to all incremental  
32 costs caused by the experimental aggregation program. **Except as may be mutually agreed by**  
33 **the gas corporation and eligible school entities and approved by the commission, such**  
34 **tariffs shall not require eligible school entities to be responsible for pipeline capacity**  
35 **charges for longer than is required by the gas corporation's tariff for large industrial or**  
36 **commercial basic transportation customers.**

37 6. The commission shall treat the gas corporation's pipeline capacity costs for  
38 associated eligible school entities in the same manner as for large industrial or commercial  
39 basic transportation customers, which shall not be considered a negative financial impact  
40 on the gas corporation, its other customers, or local taxing authorities, and the commission  
41 may adopt by order such other procedures not inconsistent with this section which the  
42 commission determines are reasonable or necessary to administer the experimental program.

43 7. This section shall terminate June 30, 2005.

**393.1000. As used in sections 393.1000 to 393.1006, the following terms mean:**

2 (1) **“Appropriate pretax revenues”, the revenues necessary to produce net operating**  
3 **income equal to:**

4 (a) **The water corporation's weighted cost of capital multiplied by the net original**  
5 **cost of eligible infrastructure system replacements, including recognition of accumulated**  
6 **deferred income taxes and accumulated depreciation associated with eligible infrastructure**  
7 **system replacements which are included in a currently effective ISRS; and**

8 (b) **Recover state, federal, and local income or excise taxes applicable to such**  
9 **income; and**

10 (c) **Recover all other ISRS costs;**

11 (2) **“Commission”, the Missouri public service commission;**

12 (3) **“Eligible infrastructure system replacements”, water utility plant projects that:**

13 (a) **Replace or extend the useful life of existing infrastructure;**

14 (b) **Are in service and used and useful;**

15 (c) Do not increase revenues by directly connecting the infrastructure replacement  
16 to new customers; and

17 (d) Were not included in the water corporation's rate base in its most recent general  
18 rate case;

19 (4) "ISRS", infrastructure system replacement surcharge;

20 (5) "ISRS costs", depreciation expenses, and property taxes that will be due within  
21 twelve months of the ISRS filing;

22 (6) "ISRS revenues", revenues produced through an ISRS, exclusive of revenues  
23 from all other rates and charges;

24 (7) "Water corporation", every corporation, company, association, joint stock  
25 company or association, partnership, and person, their lessees, trustees, or receivers  
26 appointed by any court whatsoever, owning, operating, controlling, or managing any plant  
27 or property, dam or water supply, canal, or power station, distributing or selling for  
28 distribution, or selling or supplying for gain any water to more than ten thousand  
29 customers;

30 (8) "Water utility plant projects", may consist only of the following:

31 (a) Mains, and associated valves and hydrants, installed as replacements for existing  
32 facilities that have worn out or are in deteriorated condition;

33 (b) Main cleaning and relining projects; and

34 (c) Facilities relocations required due to construction or improvement of a highway,  
35 road, street, public way, or other public work by or on behalf of the United States, this  
36 state, a political subdivision of this state, or another entity having the power of eminent  
37 domain provided that the costs related to such projects have not been reimbursed to the  
38 water corporation.

393.1003. 1. Notwithstanding any provisions of chapter 386, RSMo, and this chapter  
2 to the contrary, as of August 28, 2003, a water corporation providing water service in a  
3 county with a charter form of government and with more than one million inhabitants may  
4 file a petition and proposed rate schedules with the commission to establish or change ISRS  
5 rate schedules that will allow for the adjustment of the water corporation's rates and  
6 charges to provide for the recovery of costs for eligible infrastructure system replacements  
7 made in such county with a charter form of government and with more than one million  
8 inhabitants; provided that an ISRS, on an annualized basis, must produce ISRS revenues  
9 of at least one million dollars but not in excess of ten percent of the water corporation's  
10 base revenue level approved by the commission in the water corporation's most recent  
11 general rate proceeding. An ISRS and any future changes thereto shall be calculated and  
12 implemented in accordance with the provisions of sections 393.1000 to 393.1006. ISRS

13 revenues shall be subject to refund based upon a finding and order of the commission, to  
14 the extent provided in subsections 5 and 8 of section 393.1006.

15 **2. The commission shall not approve an ISRS for a water corporation in a county**  
16 **with a charter form of government and with more than one million inhabitants that has**  
17 **not had a general rate proceeding decided or dismissed by issuance of a commission order**  
18 **within the past three years, unless the water corporation has filed for or is the subject of**  
19 **a new general rate proceeding.**

20 **3. In no event shall a water corporation collect an ISRS for a period exceeding three**  
21 **years unless the water corporation has filed for or is the subject of a new general rate**  
22 **proceeding; provided that the ISRS may be collected until the effective date of new rate**  
23 **schedules established as a result of the new general rate proceeding, or until the subject**  
24 **general rate proceeding is otherwise decided or dismissed by issuance of a commission**  
25 **order without new rates being established.**

**393.1006. 1. (1) At the time that a water corporation files a petition with the**  
2 **commission seeking to establish or change an ISRS, it shall submit proposed ISRS rate**  
3 **schedules and its supporting documentation regarding the calculation of the proposed**  
4 **ISRS with the petition, and shall serve the office of the public counsel with a copy of its**  
5 **petition, its proposed rate schedules and its supporting documentation.**

6 **(2) Upon the filing of a petition, and any associated rate schedules, seeking to**  
7 **establish or change an ISRS, the commission shall publish notice of the filing.**

8 **2. (1) When a petition, along with any associated proposed rate schedules, is filed**  
9 **pursuant to the provisions of sections 393.1000 to 393.1006, the commission shall conduct**  
10 **an examination of the proposed ISRS.**

11 **(2) The staff of the commission may examine information of the water corporation**  
12 **to confirm that the underlying costs are in accordance with the provisions of sections**  
13 **393.1000 to 393.1006, and to confirm proper calculation of the proposed charge, and may**  
14 **submit a report regarding its examination to the commission not later than sixty days after**  
15 **the petition is filed. No other revenue requirement or ratemaking issues shall be examined**  
16 **in consideration of the petition or associated proposed rate schedules filed pursuant to the**  
17 **provisions of sections 393.1000 to 393.1006.**

18 **(3) The commission may hold a hearing on the petition and any associated rate**  
19 **schedules and shall issue an order to become effective not later than one hundred twenty**  
20 **days after the petition is filed.**

21 **(4) If the commission finds that a petition complies with the requirements of sections**  
22 **393.1000 to 393.1006, the commission shall enter an order authorizing the water**  
23 **corporation to impose an ISRS that is sufficient to recover appropriate pretax revenues,**

24 as determined by the commission pursuant to the provisions of sections 393.1000 to  
25 393.1006.

26 3. A water corporation may effectuate a change in its rate pursuant to this section  
27 no more often than two times every twelve months.

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

30 (1) The current state, federal, and local income or excise tax rates;

31 (2) The water corporation's actual regulatory capital structure as determined  
32 during the most recent general rate proceeding of the water corporation;

33 (3) The actual cost rates for the water corporation's debt and preferred stock as  
34 determined during the most recent general rate proceeding of the water corporation;

35 (4) The water corporation's cost of common equity as determined during the most  
36 recent general rate proceeding of the water corporation;

37 (5) The current property tax rate or rates applicable to the eligible infrastructure  
38 system replacements;

39 (6) The current depreciation rates applicable to the eligible infrastructure system  
40 replacements;

41 (7) In the event information called for in subdivisions (2), (3), and (4) is unavailable  
42 and the commission is not provided with such information on an agreed-upon basis, the  
43 commission shall refer to the testimony submitted during the most recent general rate  
44 proceeding of the water corporation and use, in lieu of any such unavailable information,  
45 the recommended capital structure, recommended cost rates for debt and preferred stock,  
46 and recommended cost of common equity that would produce the average weighted cost  
47 of capital based upon the various recommendations contained in such testimony.

48 5. (1) An ISRS shall be calculated based upon the amount of ISRS costs that are  
49 eligible for recovery during the period in which the surcharge will be in effect and upon  
50 the applicable customer class billing determinants utilized in designing the water  
51 corporation's customer rates in its most recent general rate proceeding. The commission  
52 shall, however, only allow such surcharges to apply to classes of customers receiving a  
53 benefit from the subject water utility plant projects or shall prorate the surcharge  
54 according to the benefit received by each class of customers; provided that the ISRS shall  
55 be applied in a manner consistent with the customer class cost-of-service study recognized  
56 by the commission in the water corporation's most recent general rate proceeding, if  
57 applicable, and with the rate design methodology utilized to develop the water  
58 corporation's rates resulting from its most recent general rate proceeding.

59           **(2) At the end of each twelve-month calendar period that an ISRS is in effect, the**  
60 **water corporation shall reconcile the differences between the revenues resulting from an**  
61 **ISRS and the appropriate pretax revenues as found by the commission for that period and**  
62 **shall submit the reconciliation and a proposed ISRS adjustment to the commission for**  
63 **approval to recover or refund the difference, as appropriate, through adjustment of an**  
64 **ISRS.**

65           **6. (1) A water corporation that has implemented an ISRS pursuant to the provisions**  
66 **of sections 393.1000 to 393.1006 shall file revised rate schedules to reset the ISRS to zero**  
67 **when new base rates and charges become effective for the water corporation following a**  
68 **commission order establishing customer rates in a general rate proceeding that**  
69 **incorporates in the utility's base rates subject to subsections 8 and 9 of this section eligible**  
70 **costs previously reflected in an ISRS.**

71           **(2) Upon the inclusion in a water corporation's base rates subject to subsections 8**  
72 **and 9 of this section of eligible costs previously reflected in an ISRS, the water corporation**  
73 **shall immediately thereafter reconcile any previously unreconciled ISRS revenues as**  
74 **necessary to ensure that revenues resulting from the ISRS match as closely as possible the**  
75 **appropriate pretax revenues as found by the commission for that period.**

76           **7. A water corporation's filing of a petition to establish or change an ISRS pursuant**  
77 **to the provisions of sections 393.1000 to 393.1006 shall not be considered a request for a**  
78 **general increase in the water corporation's base rates and charges.**

79           **8. Commission approval of a petition, and any associated rate schedules, to establish**  
80 **or change an ISRS pursuant to the provisions of sections 393.1000 to 393.1006 shall in no**  
81 **way be binding upon the commission in determining the ratemaking treatment to be**  
82 **applied to eligible infrastructure system replacements during a subsequent general rate**  
83 **proceeding when the commission may undertake to review the prudence of such costs. In**  
84 **the event the commission disallows, during a subsequent general rate proceeding, recovery**  
85 **of costs associated with eligible infrastructure system replacements previously included in**  
86 **an ISRS, the water corporation shall offset its ISRS in the future as necessary to recognize**  
87 **and account for any such overcollections.**

88           **9. Nothing contained in sections 393.1000 to 393.1006 shall be construed to impair**  
89 **in any way the authority of the commission to review the reasonableness of the rates or**  
90 **charges of a water corporation, including review of the prudence of eligible infrastructure**  
91 **system replacements made by a water corporation, pursuant to the provisions of section**  
92 **386.390 RSMo.**

93           **10. The commission shall have authority to promulgate rules for the implementation**  
94 **of sections 393.1000 to 393.1006, but only to the extent such rules are consistent with, and**

95 do not delay the implementation of, the provisions of sections 393.1000 to 393.1006. Any  
96 rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created  
97 under the authority delegated in this section shall become effective only if it complies with  
98 and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section  
99 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the  
100 powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to  
101 delay the effective date, or to disapprove and annul a rule are subsequently held  
102 unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted  
103 after August 28, 2003, shall be invalid and void.

393.1009. As used in sections 393.1009 to 393.1015, the following terms mean:

- 2 (1) “Appropriate pretax revenues”, the revenues necessary to produce net operating  
3 income equal to:
- 4 (a) The gas corporation's weighted cost of capital multiplied by the net original cost  
5 of eligible infrastructure system replacements, including recognition of accumulated  
6 deferred income taxes and accumulated depreciation associated with eligible infrastructure  
7 system replacements which are included in a currently effective ISRS; and  
8 (b) Recover state, federal, and local income or excise taxes applicable to such  
9 income; and  
10 (c) Recover all other ISRS costs;
- 11 (2) “Commission”, the Missouri public service commission;
- 12 (3) “Eligible infrastructure system replacements”, gas utility plant projects that:  
13 (a) Do not increase revenues by directly connecting the infrastructure replacement  
14 to new customers;  
15 (b) Are in service and used and useful;  
16 (c) Were not included in the gas corporation's rate base in its most recent general  
17 rate case; and  
18 (d) Replace, or extend the useful life of an existing infrastructure;
- 19 (4) “Gas corporation”, every corporation, company, association, joint stock  
20 company or association, partnership and person, their lessees, trustees or receivers  
21 appointed by any court whatsoever, owning, operating, controlling, or managing any gas  
22 plant operating for public use under privilege, license, or franchise now or hereafter  
23 granted by the state or any political subdivision, county, or municipality thereof as defined  
24 in section 386.020, RSMo;
- 25 (5) “Gas utility plant projects”, may consist only of the following:

26 (a) Mains, valves, service lines, regulator stations, vaults, and other pipeline system  
27 components installed to comply with state or federal safety requirements as replacements  
28 for existing facilities that have worn out or are in deteriorated condition;

29 (b) Main relining projects, service line insertion projects, joint encapsulation  
30 projects, and other similar projects extending the useful life, or enhancing the integrity of  
31 pipeline system components undertaken to comply with state or federal safety  
32 requirements; and

33 (c) Facilities relocations required due to construction or improvement of a highway,  
34 road, street, public way, or other public work by or on behalf of the United States, this  
35 state, a political subdivision of this state, or another entity having the power of eminent  
36 domain provided that the costs related to such projects have not been reimbursed to the  
37 gas corporation;

38 (6) "ISRS", infrastructure system replacement surcharge;

39 (7) "ISRS costs", depreciation expense and property taxes that will be due within  
40 twelve months of the ISRS filing;

41 (8) "ISRS revenues", revenues produced through an ISRS exclusive of revenues  
42 from all other rates and charges.

393.1012. 1. Notwithstanding any provisions of chapter 386, RSMo, and this chapter  
2 to the contrary, beginning August 28, 2003, a gas corporation providing gas service may  
3 file a petition and proposed rate schedules with the commission to establish or change ISRS  
4 rate schedules that will allow for the adjustment of the gas corporation's rates and charges  
5 to provide for the recovery of costs for eligible infrastructure system replacements. The  
6 commission may not approve an ISRS to the extent it would produce total annualized ISRS  
7 revenues below the lesser of one million dollars or one-half of one percent of the gas  
8 corporation's base revenue level approved by the commission in the gas corporation's most  
9 recent general rate proceeding. The commission may not approve an ISRS to the extent it  
10 would produce total annualized ISRS revenues exceeding ten percent of the gas  
11 corporation's base revenue level approved by the commission in the gas corporation's most  
12 recent general rate proceeding. An ISRS and any future changes thereto shall be calculated  
13 and implemented in accordance with the provisions of sections 393.1009 to 393.1015. ISRS  
14 revenues shall be subject to a refund based upon a finding and order of the commission to  
15 the extent provided in subsections 5 and 8 of section 393.1009.

16 2. The commission shall not approve an ISRS for any gas corporation that has not  
17 had a general rate proceeding decided or dismissed by issuance of a commission order  
18 within the past three years, unless the gas corporation has filed for or is the subject of a  
19 new general rate proceeding.

20           **3. In no event shall a gas corporation collect an ISRS for a period exceeding three**  
21 **years unless the gas corporation has filed for or is the subject of a new general rate**  
22 **proceeding; provided that the ISRS may be collected until the effective date of new rate**  
23 **schedules established as a result of the new general rate proceeding, or until the subject**  
24 **general rate proceeding is otherwise decided or dismissed by issuance of a commission**  
25 **order without new rates being established.**

**393.1015. 1. (1) At the time that a gas corporation files a petition with the**  
2 **commission seeking the establish or change an ISRS, it shall submit proposed ISRS rate**  
3 **schedules and its supporting documentation regarding the calculation of the proposed**  
4 **ISRS with the petition, and shall serve the office of the public counsel with a copy of its**  
5 **petition, its proposed rate schedules, and its supporting documentation.**

6           **(2) Upon the filing of a petition, and any associated rate schedules, seeking to**  
7 **establish or change an ISRS, the commission shall publish notice of the filing.**

8           **2. (1) When a petition, along with any associated proposed rate schedules, is filed**  
9 **pursuant to the provisions of sections 393.1009 to 393.1015, the commission shall conduct**  
10 **an examination of the proposed ISRS.**

11           **(2) The staff of the commission may examine information of the gas corporation to**  
12 **confirm that the underlying costs are in accordance with the provisions of sections**  
13 **393.1009 to 393.1015, and to confirm proper calculation of the proposed charge, and may**  
14 **submit a report regarding its examination to the commission not later than sixty days after**  
15 **the petition is filed. No other revenue requirement or ratemaking issues may be examined**  
16 **in consideration of the petition or associated proposed rate schedules filed pursuant to the**  
17 **provisions of sections 393.1009 to 393.1015.**

18           **(3) The commission may hold a hearing on the petition and any associated rate**  
19 **schedules and shall issue an order to become effective not later than one hundred twenty**  
20 **days after the petition is filed.**

21           **(4) If the commission finds that a petition complies with the requirements of sections**  
22 **393.1009 to 393.1015, the commission shall enter an order authorizing the corporation to**  
23 **impose an ISRS that is sufficient to recover appropriate pretax revenue, as determined by**  
24 **the commission pursuant to the provisions of sections 393.1009 to 393.1015.**

25           **3. A gas corporation may effectuate a change in its rate pursuant to the provisions**  
26 **of this section no more often than two times every twelve months.**

27           **4. In determining the appropriate pretax revenue, the commission shall consider**  
28 **only the following factors:**

29           **(1) The current state, federal, and local income tax or excise rates;**

30           **(2) The gas corporation's actual regulatory capital structure as determined during**  
31 **the most recent general rate proceeding of the gas corporation;**

32           **(3) The actual cost rates for the gas corporation's debt and preferred stock as**  
33 **determined during the most recent general rate proceeding of the gas corporation;**

34           **(4) The gas corporation's cost of common equity as determined during the most**  
35 **recent general rate proceeding of the gas corporation;**

36           **(5) The current property tax rate or rates applicable to the eligible infrastructure**  
37 **system replacements;**

38           **(6) The current depreciation rates applicable to the eligible infrastructure system**  
39 **replacements; and**

40           **(7) In the event information pursuant to subdivisions (2), (3), and (4) of this**  
41 **subsection is unavailable and the commission is not provided with such information on an**  
42 **agreed upon basis, the commission shall refer to the testimony submitted during the most**  
43 **recent general rate proceeding of the gas corporation and use, in lieu of any such**  
44 **unavailable information, the recommended capital structure, recommended cost rates for**  
45 **debt and preferred stock, and recommended cost of common equity that would produce**  
46 **the average weighted cost of capital based upon the various recommendations contained**  
47 **in such testimony.**

48           **5. (1) The monthly ISRS charge may be calculated based on a reasonable estimate**  
49 **of billing units in the period in which the charge will be in effect, which shall be**  
50 **conclusively established by dividing the appropriate pretax revenues by the customer**  
51 **numbers reported by the gas corporation in the annual report it most recently filed with**  
52 **the commission pursuant to subdivision (6) of section 393.140, and then further dividing**  
53 **this quotient by twelve. Provided, however, that the monthly ISRS may vary according to**  
54 **customer class and may be calculated based on customer numbers as determined during**  
55 **the most recent general rate proceeding of the gas corporation so long as the monthly ISRS**  
56 **for each customer class maintains a proportional relationship equivalent to the**  
57 **proportional relationship of the monthly customer charge for each customer class.**

58           **(2) At the end of each twelve month calendar period the ISRS is in effect, the gas**  
59 **corporation shall reconcile the differences between the revenues resulting from an ISRS**  
60 **and the appropriate pretax revenues as found by the commission for that period and shall**  
61 **submit the reconciliation and a proposed ISRS adjustment to the commission for approval**  
62 **to recover or refund the difference, as appropriate, through adjustments of an ISRS**  
63 **charge.**

64           **6. (1) A gas corporation that has implemented an ISRS pursuant to the provisions**  
65 **of sections 393.1009 to 393.1015 shall file revised rate schedules to reset the ISRS to zero**

66 when new base rates and charges become effective for the gas corporation following a  
67 commission order establishing customer rates in a general rate proceeding that  
68 incorporates in the utility's base rates subject to subsections 8 and 9 of this section eligible  
69 costs previously reflected in an ISRS.

70 (2) Upon the inclusion in a gas corporation's base rates subject to subsections 8 and  
71 9 of this section of eligible costs previously reflected in an ISRS, the gas corporation shall  
72 immediately thereafter reconcile any previously unreconciled ISRS revenues as necessary  
73 to ensure that revenues resulting from the ISRS match as closely as possible the  
74 appropriate pretax revenues as found by the commission for that period.

75 7. A gas corporation's filing of a petition or change an ISRS pursuant to the  
76 provisions of sections 393.1009 to 393.1015 shall not be considered a request for a general  
77 increase in the gas corporation's base rates and charges.

78 8. Commission approval of a petition, and any associated rate schedules, to establish  
79 or change an ISRS pursuant to the provisions of sections 393.1009 to 393.1015 shall in no  
80 way be binding upon the commission in determining the ratemaking treatment to be  
81 applied to eligible infrastructure system replacements during a subsequent general rate  
82 proceeding when the commission may undertake to review the prudence of such costs. In  
83 the event the commission disallows, during a subsequent general rate proceeding, recovery  
84 of costs associated with eligible infrastructure system replacements previously included in  
85 an ISRS, the gas corporation shall offset its ISRS in the future as necessary to recognize  
86 and account for any such overcollections.

87 9. Nothing in this section shall be construed as limiting the authority of the  
88 commission to review and consider infrastructure system replacement costs along with  
89 other costs during any general rate proceeding of any gas corporation.

90 10. Nothing contained in sections 393.1009 to 393.1015 shall be construed to impair  
91 in any way the authority of the commission to review the reasonableness of the rates or  
92 charges of a gas corporation, including review of the prudence of eligible infrastructure  
93 system replacements made by a gas corporation, pursuant to the provisions of section  
94 386.390, RSMo.

95 11. The commission shall have authority to promulgate rules for the implementation  
96 of sections 393.1009 to 393.1015, but only to the extent such rules are consistent with, and  
97 do not delay the implementation of, the provisions of sections 393.1009 to 393.1015. Any  
98 rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created  
99 under the authority delegated in this section shall become effective only if it complies with  
100 and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section  
101 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the

102 **powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to**  
103 **delay the effective date, or to disapprove and annul a rule are subsequently held**  
104 **unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted**  
105 **after August 28, 2003, shall be invalid and void.**

**Section 1. A steam heating company having fewer than one hundred customers in**  
2 **this state may file under a small company rate procedure promulgated by the commission**  
3 **which shall be consistent with 4 CSR 240-3.240 by giving notice to the secretary of the**  
4 **commission, the public counsel, each customer, and each gas corporation or electric**  
5 **corporation providing utility service in the area. Any customer, gas corporation, or electric**  
6 **corporation responding within thirty days of the date of the notice shall be entitled to**  
7 **copies of all filings subsequently made in the case and may participate in any conferences**  
8 **or hearings therein.**

Section B. Because immediate action is necessary in order to ensure the continued  
2 operation of certain aluminum smelting facilities in this state, the enactment of section 91.026  
3 and the repeal and reenactment of section 91.030 of section A of this act is deemed necessary for  
4 the immediate preservation of the public health, welfare, peace and safety, and is hereby declared  
5 to be an emergency act within the meaning of the constitution, and section 91.026 and the repeal  
6 and reenactment of section 91.030 section A of this act shall be in full force and effect upon its  
7 passage and approval.