

## SENATE SUBSTITUTE

FOR

## SENATE COMMITTEE SUBSTITUTE

FOR

HOUSE BILL NO. 208

## AN ACT

To repeal sections 91.030, 386.050, 386.210, 392.200, 393.110, and 393.310, RSMo, and to enact in lieu thereof nine 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:

1       Section A. Sections 91.030, 386.050, 386.210, 392.200,  
2       393.110, and 393.310, RSMo, are repealed and nine new sections  
3       enacted in lieu thereof, to be known as sections 91.026, 91.030,  
4       386.050, 386.135, 386.210, 392.200, 393.110, 393.310, and 1, to  
5       read as follows:

6       91.026. 1. As used in this section, the following terms  
7       mean:

8       (1) "Commission", the Missouri public service commission;

9       (2) "Aluminum smelting facility", a facility whose primary  
10      industry is the smelting of aluminum and primary metals, Standard  
11      Industrial Classification Code 3334, is located in a county of  
12      the second classification, which has used over three million  
13      megawatt hours of electricity during a calendar year, and has had  
14      electrical service provided to said facility in the past, in part  
15      or whole, by a municipally owned utility and, in part or whole,  
16      by an electric generating cooperative owned by rural electric

1 cooperatives;

2 (3) "Delivery services", transmission, distribution, or  
3 metering of electric power and energy or services ancillary  
4 thereto or related services;

5 (4) "Municipally owned utility", a utility as defined in  
6 subdivision (1) of subsection 1 of section 91.025;

7 (5) "Local electric service utility", an electrical  
8 corporation engaged in the furnishing of local electric service  
9 to consumers under a certificate of convenience and necessity  
10 issued by the commission, any municipal electric distribution  
11 system or electric cooperative.

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

24 3. Notwithstanding the provisions of section 91.025,  
25 section 393.106, RSMo, and section 394.315, RSMo, to the  
26 contrary, any provider of such electric power and energy and  
27 delivery services, whether or not otherwise under Missouri  
28 regulatory jurisdiction, shall have the right to transact for and

1 sell electric power and energy and delivery services to an  
2 aluminum smelting facility. Any transactions or contracts  
3 pursuant to this section for electric power and energy and  
4 delivery services shall not be subject to the jurisdiction of the  
5 commission with regard to the determination of rates.

6 4. When current electric power and energy is being supplied  
7 in part or in whole by a municipally owned utility and in part or  
8 whole by an electric generating cooperative owned by rural  
9 electric cooperatives and not under any contract authorized  
10 pursuant to this section, a replacement contract pursuant to the  
11 provisions of subsections 2 and 3 of this section shall provide  
12 for all of the electric power and energy and delivery services  
13 requirements of the aluminum smelter and shall meet the following  
14 criteria:

15 (1) The aluminum smelting facility's change of supplier  
16 shall have no negative financial impact on any past supplier or  
17 suppliers or to other electricity customers of such supplier or  
18 suppliers;

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

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

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

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

7       6. Once an aluminum smelting facility has purchased  
8 electric power pursuant to its rights pursuant to this section,  
9 no past supplier of energy and related services shall have any  
10 obligation to provide electric power and energy and delivery  
11 services to such aluminum smelting facility except as may be  
12 established by written contract.

13       7. The provisions of this section recognize highly unique  
14 circumstances of aluminum smelting facilities and are not to be  
15 interpreted as condoning or conceding the suitability of retail  
16 electric restructuring for any customer or class of customers in  
17 the state of Missouri.

18       91.030. Any city, town or village in this state, having  
19 authority to maintain and operate an electric light and power  
20 plant, may procure electric current and ancillary services for  
21 that purpose from any other city, owning and operating such  
22 plant, or other lawful supplier and to that end may enter into a  
23 contract therefor with such city or other supplier having such  
24 plant for such period and upon such terms as may be agreed by the  
25 contracting parties solely on the approval by the governing board  
26 or council of such municipality owned or operated electric power  
27 system or by its duly authorized representative without further  
28 regulatory or public approval, notwithstanding any provisions of

1 law to the contrary.

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

18       2. On or after the effective date of this act, no member of  
19 the commission or technical advisory staff shall establish or  
20 maintain a committee that is regulated by the campaign finance  
21 disclosure law in chapter 130, RSMo, except those members who  
22 were members and had established such a campaign committee prior  
23 to January 1, 2003. No member of the commission who established  
24 and maintained such a campaign committee prior to the effective  
25 date of this act, shall allow contributions or deposits to be  
26 made into such campaign committee nor expenditures to be made by  
27 or on behalf of such campaign committee during the time period  
28 that such person is a member of the commission. Nothing in this

1 subsection shall be construed to limit or prohibit the activities  
2 of members of the commission, or the activities of such regulated  
3 campaign committees, which activities occurred prior to January  
4 1, 2003. Any member able to maintain a committee pursuant to the  
5 provisions of this section, due to campaign committee's existence  
6 prior to January 1, 2003, shall be required to disclose the  
7 existence of the committee prior to the initial hearing on all  
8 matters before the commission and to all litigants in writing in  
9 any matter coming before the commission.

10 386.135. 1. The commission shall have an independent  
11 technical advisory staff of up to six full time employees. The  
12 advisory staff shall have expertise in accounting, economics,  
13 finance, engineering/utility operations, law, or public policy.

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

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

27 4. It shall be the duty of the technical advisory staff to  
28 render advice and assistance to the commissioners and the

1 commission's hearing officers on technical matters within their  
2 respective areas of expertise that may arise during the course of  
3 proceedings before the commission.

4 5. The technical advisory staff shall also update the  
5 commission and the commission's hearing officers periodically on  
6 developments and trends in public utility regulation, including  
7 updates comparing the use, nature, and effect of various  
8 regulatory practices and procedures as employed by the commission  
9 and public utility commissions in other jurisdictions.

10 6. Each member of the technical advisory staff shall be  
11 subject to any applicable ex parte or conflict of interest  
12 requirements in the same manner and to the same degree as any  
13 commissioner, provided that neither any person regulated by,  
14 appearing before, or employed by the commission shall be  
15 permitted to offer such member a different appointment or  
16 position during that member's tenure on the technical advisory  
17 staff.

18 7. No employee of a company or corporation regulated by the  
19 public service commission, no employee of the office of public  
20 counsel or the public counsel, and no staff members of either the  
21 utility operations division or utility services division, who,  
22 were an employee or staff member on, during the two years  
23 immediately preceding, or anytime after August 28, 2003, may be a  
24 member of the commission's technical advisory staff for two years  
25 following the termination of their employment with the  
26 corporation, office of public counsel or commission staff member.

27 8. The technical advisory staff shall never be a party to  
28 any case before the commission.

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

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

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

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

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

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

24          (a) If the communication is written, the person or party  
25          making the communication shall no later than the next business  
26          day following the communication, file a copy of the written  
27          communication in the official case file of the pending filing or  
28          case and serve it upon all parties of record;



1       (b) If the communication is oral, the party making the oral  
2 communication shall no later than the next business day following  
3 the communication file a memorandum in the official case file of  
4 the pending case disclosing the communication and serve such  
5 memorandum on all parties of record. The memorandum must contain  
6 a summary of the substance of the communication and not merely a  
7 listing of the subjects covered.

8       4. Nothing in this section or any other provision of law  
9 shall be construed as imposing any limitation on the free  
10 exchange of ideas, views, and information between any person and  
11 the commission or any commissioner, provided that such  
12 communications relate to matters of general regulatory policy and  
13 do not address the merits of the specific facts, evidence,  
14 claims, or positions presented or taken in a pending case unless  
15 such communications comply with the provisions of subsection 3 of  
16 this section.

17       5. The commission and any commissioner may also advise any  
18 member of the general assembly or other governmental official of  
19 the issues or factual allegations that are the subject of a  
20 pending case, provided that the commission or commissioner does  
21 not express an opinion as to the merits of such issues or  
22 allegations, and may discuss in a public agenda meeting with  
23 parties to a case in which an evidentiary hearing has been  
24 scheduled, any procedural matter in such case or any matter  
25 relating to a unanimous stipulation or agreement resolving all of  
26 the issues in such case.

27       [2.] 6. The commission may enter into and establish fair  
28 and equitable cooperative agreements or contracts with or act as

1 an agent or licensee for the United States of America, or any  
2 official, agency or instrumentality thereof, or any public  
3 utility or similar commission of other states, that are proper,  
4 expedient, fair and equitable and in the interest of the state of  
5 Missouri and the citizens thereof, for the purpose of carrying  
6 out its duties [under] pursuant to section 386.250 as limited and  
7 supplemented by section 386.030 and to that end the commission  
8 may receive and disburse any contributions, grants or other  
9 financial assistance as a result of or pursuant to such  
10 agreements or contracts. Any contributions, grants or other  
11 financial assistance so received shall be deposited in the public  
12 service commission utility fund or the state highway commission  
13 fund depending upon the purposes for which they are received.

14 [3.] 7. The commission may make joint investigations, hold  
15 joint hearings within or without the state, and issue joint or  
16 concurrent orders in conjunction or concurrence with any  
17 railroad, public utility or similar commission, of other states  
18 or the United States of America, or any official, agency or any  
19 instrumentality thereof, except that in the holding of such  
20 investigations or hearings, or in the making of such orders, the  
21 commission shall function under agreements or contracts between  
22 states or under the concurrent power of states to regulate  
23 interstate commerce, or as an agent of the United States of  
24 America, or any official, agency or instrumentality thereof, or  
25 otherwise.

26 392.200. 1. Every telecommunications company shall furnish  
27 and provide with respect to its business such instrumentalities  
28 and facilities as shall be adequate and in all respects just and

1 reasonable. All charges made and demanded by any  
2 telecommunications company for any service rendered or to be  
3 rendered in connection therewith shall be just and reasonable and  
4 not more than allowed by law or by order or decision of the  
5 commission. Every unjust or unreasonable charge made or demanded  
6 for any such service or in connection therewith or in excess of  
7 that allowed by law or by order or decision of the commission is  
8 prohibited and declared to be unlawful.

9       2. No telecommunications company shall directly or  
10 indirectly or by any special rate, rebate, drawback or other  
11 device or method charge, demand, collect or receive from any  
12 person or corporation a greater or less compensation for any  
13 service rendered or to be rendered with respect to  
14 telecommunications or in connection therewith, except as  
15 authorized in this chapter, than it charges, demands, collects or  
16 receives from any other person or corporation for doing a like  
17 and contemporaneous service with respect to telecommunications  
18 under the same or substantially the same circumstances and  
19 conditions. Promotional programs for telecommunications services  
20 may be offered by telecommunications companies for periods of  
21 time so long as the offer is otherwise consistent with the  
22 provisions of this chapter and approved by the commission.  
23 Neither this subsection nor subsection 3 of this section shall be  
24 construed to prohibit an economy rate telephone service offering.  
25 This section and section 392.220 to the contrary notwithstanding,  
26 the commission is authorized to approve tariffs filed by local  
27 exchange telecommunications companies which elect to provide  
28 reduced charges for residential telecommunications connection

1 services pursuant to the lifeline connection assistance plan as  
2 promulgated by the federal communications commission. Eligible  
3 subscribers for such connection services shall be those as  
4 defined by participating local exchange telecommunications  
5 company tariffs.

6 3. No telecommunications company shall make or give any  
7 undue or unreasonable preference or advantage to any person,  
8 corporation or locality, or subject any particular person,  
9 corporation or locality to any undue or unreasonable prejudice or  
10 disadvantage in any respect whatsoever except that  
11 telecommunications messages may be classified into such classes  
12 as are just and reasonable, and different rates may be charged  
13 for the different classes of messages.

14 4. (1) No telecommunications company may define a  
15 telecommunications service as a different telecommunications  
16 service based on the geographic area or other market segmentation  
17 within which such telecommunications service is offered or  
18 provided, unless the telecommunications company makes application  
19 and files a tariff or tariffs which propose relief from this  
20 subsection. Any such tariff shall be subject to the provisions  
21 of sections 392.220 and 392.230 and in any hearing thereon the  
22 burden shall be on the telecommunications company to show, by  
23 clear and convincing evidence, that the definition of such  
24 service based on the geographic area or other market within which  
25 such service is offered is reasonably necessary to promote the  
26 public interest and the purposes and policies of this chapter.

27 (2) It is the intent of this act to bring the benefits of  
28 competition to all customers and to ensure that incumbent and

1 alternative local exchange telecommunications companies have the  
2 opportunity to price and market telecommunications services to  
3 all prospective customers in any geographic area in which they  
4 compete. To promote the goals of the federal Telecommunications  
5 Act of 1996, for an incumbent local exchange telecommunications  
6 company in any exchange where an alternative local exchange  
7 telecommunications company has been certified and is providing  
8 basic local telecommunications services or switched exchange  
9 access services, or for an alternative local exchange  
10 telecommunications company, the commission shall review and  
11 approve or reject, within forty-five days of filing, tariffs for  
12 proposed different services as follows:

13 (a) For services proposed on an exchange-wide basis, it  
14 shall be presumed that a tariff which defines and establishes  
15 prices for a local exchange telecommunications service or  
16 exchange access service as a different telecommunications service  
17 in the geographic area, no smaller than an exchange, within which  
18 such local exchange telecommunications service or exchange access  
19 service is offered is reasonably necessary to promote the public  
20 interest and the purposes and policies of this chapter;

21 (b) For services proposed in a geographic area smaller than  
22 an exchange or other market segmentation within which or to whom  
23 such telecommunications service is proposed to be offered, a  
24 local exchange telecommunications company may petition the  
25 commission to define and establish a local exchange  
26 telecommunications service or exchange access service as a  
27 different local exchange telecommunications service or exchange  
28 access service. The commission shall approve such a proposal if

1 it finds, based upon clear and convincing evidence, that such  
2 service in a smaller geographic area or such other market  
3 segmentation is in the public interest and is reasonably  
4 necessary to promote competition and the purposes of this  
5 chapter. Upon approval of such a smaller geographic area or such  
6 other market segmentation for a different service for one local  
7 exchange telecommunications company, all other local exchange  
8 telecommunications companies certified to provide service in that  
9 exchange may file a tariff to use such smaller geographic area or  
10 such other market segmentation to provide that service;

11 (c) For proposed different services described in paragraphs  
12 (a) and (b) of this subdivision, the local exchange  
13 telecommunications company which files a tariff to provide such  
14 service shall provide the service to all similarly situated  
15 customers, upon request in accordance with that company's  
16 approved tariff, in the exchange or geographic area smaller than  
17 an exchange or such other market segmentation for which the  
18 tariff was filed, and no price proposed for such service by an  
19 incumbent local exchange telecommunications company, other than  
20 for a competitive service, shall be lower than its long run  
21 incremental cost, as defined in section 386.020, RSMo;

22 (3) The commission, on its own motion or upon motion of the  
23 public counsel, may by order, after notice and hearing, define a  
24 telecommunications service offered or provided by a  
25 telecommunications company as a different telecommunications  
26 service dependent upon the geographic area or other market within  
27 which such telecommunications service is offered or provided and  
28 apply different service classifications to such service only upon

1 a finding, based on clear and convincing evidence, that such  
2 different treatment is reasonably necessary to promote the public  
3 interest and the purposes and policies of this chapter.

4 5. No telecommunications company may charge a different  
5 price per minute or other unit of measure for the same,  
6 substitutable, or equivalent interexchange telecommunications  
7 service provided over the same or equivalent distance between two  
8 points without filing a tariff for the offer or provision of such  
9 service pursuant to sections 392.220 and 392.230. In any  
10 proceeding under sections 392.220 and 392.230 wherein a  
11 telecommunications company seeks to charge a different price per  
12 minute or other unit of measure for the same, substitutable, or  
13 equivalent interexchange service, the burden shall be on the  
14 subject telecommunications company to show that such charges are  
15 in the public interest and consistent with the provisions and  
16 purposes of this chapter. The commission may modify or prohibit  
17 such charges if the subject telecommunications company fails to  
18 show that such charges are in the public interest and consistent  
19 with the provisions and purposes of this chapter. This  
20 subsection shall not apply to reasonable price discounts based on  
21 the volume of service provided, so long as such discounts are  
22 nondiscriminatory and offered under the same rates, terms, and  
23 conditions throughout a telecommunications company's certificated  
24 or service area.

25 6. Every telecommunications company operating in this state  
26 shall receive, transmit and deliver, without discrimination or  
27 delay, the conversations and messages of every other  
28 telecommunications company with whose facilities a connection may

1 have been made.

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

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

12 9. This act shall not be construed to prohibit the  
13 commission, upon determining that it is in the public interest,  
14 from altering local exchange boundaries, provided that the  
15 incumbent local exchange telecommunications company or companies  
16 serving each exchange for which the boundaries are altered  
17 provide notice to the commission that the companies approve the  
18 alteration of exchange boundaries.

19 10. Notwithstanding any other provision of this section,  
20 every telecommunications company is authorized to offer term  
21 agreements of up to five years on any of its telecommunications  
22 services.

23 11. Notwithstanding any other provision of this section,  
24 every telecommunications company is authorized to offer  
25 discounted rates or other special promotions on any of its  
26 telecommunications services to any new and/or former customers.

27 393.110. 1. Sections 393.110 to 393.285 shall apply to the  
28 manufacture and furnishing of gas for light, heat or power and



1 the furnishing of natural gas for light, heat or power, and the  
2 generation, furnishing and transmission of electricity for light,  
3 heat or power, the supplying and distributing of water for any  
4 purpose whatsoever, and the furnishing of a sewer system for the  
5 collection, carriage, treatment or disposal of sewage for  
6 municipal, domestic or other beneficial or necessary purpose.

7 2. Notwithstanding any provision in chapter 386, RSMo, or  
8 this chapter to the contrary, the public service commission shall  
9 not have jurisdiction over the rates, financing, accounting, or  
10 management of any electrical corporation which is required by its  
11 bylaws to operate on the not-for-profit cooperative business  
12 plan, with its consumers who receive service as the stockholders  
13 of such corporation, and which holds a certificate of public  
14 convenience and necessity to serve a majority of its consumer-  
15 owners in counties of the third classification as of August 28,  
16 2003. Nothing in this section shall be construed as amending or  
17 superseding the commission's authority granted in subsection 1 of  
18 section 386.310, RSMo, in section 393.106, and sections 386.800  
19 and 394.312, RSMo.

20 393.310. 1. This section shall only apply to gas  
21 corporations as defined in section 386.020, RSMo. This section  
22 shall not affect any existing laws and shall only apply to the  
23 program established pursuant to this section.

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

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

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

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

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

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

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

21           (2) Provide for the resale of such natural gas supplies,  
22 including related transportation service costs, to the eligible  
23 school entities at the gas corporation's cost of purchasing of  
24 such gas supplies and transportation, plus all applicable  
25 distribution costs, plus an aggregation and balancing fee to be  
26 determined by the commission, not to exceed four- tenths of one  
27 cent per therm delivered during the first year; and

28           (3) Not require telemetry or special metering, except for

1 individual school meters over one hundred thousand therms  
2 annually.

3 5. The commission may suspend the tariff as required  
4 pursuant to subsection 3 of this section for a period ending no  
5 later than November 1, 2002, and shall approve such tariffs upon  
6 finding that implementation of the aggregation program set forth  
7 in such tariffs will not have any negative financial impact on  
8 the gas corporation, its other customers or local taxing  
9 authorities, and that the aggregation charge is sufficient to  
10 generate revenue at least equal to all incremental costs caused  
11 by the experimental aggregation program. Except as may be  
12 mutually agreed by the gas corporation and eligible school  
13 entities and approved by the commission, such tariffs shall not  
14 require eligible school entities to be responsible for pipeline  
15 capacity charges for longer than is required by the gas  
16 corporation's tariff for large industrial or commercial basic  
17 transportation customers.

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

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

28 Section 1. A steam heating company having fewer than one

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

11       Section B. Because immediate action is necessary in order  
12 to ensure the continued operation of certain aluminum smelting  
13 facilities in this state, the enactment of section 91.026 and the  
14 repeal and reenactment of section 91.030 of section A of this act  
15 is deemed necessary for the immediate preservation of the public  
16 health, welfare, peace and safety, and is hereby declared to be  
17 an emergency act within the meaning of the constitution, and  
18 section 91.026 and the repeal and reenactment of section 91.030  
19 section A of this act shall be in full force and effect upon its  
20 passage and approval.