

FIRST REGULAR SESSION

HOUSE BILL NO. 918

94TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES KRAUS (Sponsor) AND EMERY (Co-sponsor).

Read 1st time February 20, 2007 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

1814L.02I

AN ACT

To repeal section 386.020, RSMo, and to enact in lieu thereof one new section relating to the public service commission.

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

Section A. Section 386.020, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 386.020, to read as follows:

386.020. As used in this chapter, the following words and phrases mean:

- (1) "Alternative local exchange telecommunications company", a local exchange telecommunications company certified by the commission to provide basic or nonbasic local telecommunications service or switched exchange access service, or any combination of such services, in a specific geographic area subsequent to December 31, 1995;
- (2) "Alternative operator services company", any certificated interexchange telecommunications company which receives more than forty percent of its annual Missouri intrastate telecommunications service revenues from the provision of operator services pursuant to operator services contracts with traffic aggregators;
- (3) "Basic interexchange telecommunications service" includes, at a minimum, two-way switched voice service between points in different local calling scopes as determined by the commission and shall include other services as determined by the commission by rule upon periodic review and update;

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

14 (4) "Basic local telecommunications service", two-way switched voice service within
15 a local calling scope as determined by the commission comprised of any of the following
16 services and their recurring and nonrecurring charges:

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

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

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

25 (d) Access to basic local operator services;

26 (e) Access to basic local directory assistance;

27 (f) Standard intercept service;

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

30 (h) One standard white pages directory listing.

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

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

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

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

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

45 (9) "Competitive telecommunications company", a telecommunications company which
46 has been classified as such by the commission pursuant to section 392.361, RSMo;

47 (10) "Competitive telecommunications service", a telecommunications service which
48 has been classified as such by the commission pursuant to section 392.245, RSMo, or to section

49 392.361, RSMo, or which has become a competitive telecommunications service pursuant to
50 section 392.370, RSMo;

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

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

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

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

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

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

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

64 (e) Any other factors deemed relevant by the commission and necessary to implement
65 the purposes and policies of chapter 392, RSMo;

66 (14) "Electric plant" includes all real estate, fixtures and personal property operated,
67 controlled, owned, used or to be used for or in connection with or to facilitate the generation,
68 transmission, distribution, sale or furnishing of electricity for light, heat or power; and any
69 conduits, ducts or other devices, materials, apparatus or property for containing, holding or
70 carrying conductors used or to be used for the transmission of electricity for light, heat or power;

71 (15) "Electrical corporation" includes every corporation, company, association, joint
72 stock company or association, partnership and person, their lessees, trustees or receivers
73 appointed by any court whatsoever, other than a railroad, light rail or street railroad corporation
74 generating electricity solely for railroad, light rail or street railroad purposes or for the use of its
75 tenants and not for sale to others, owning, operating, controlling or managing any electric plant
76 except where electricity is generated or distributed by the producer solely on or through private
77 property for railroad, light rail or street railroad purposes or for its own use or the use of its
78 tenants and not for sale to others;

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

82 (17) "Exchange access service", a service provided by a local exchange
83 telecommunications company which enables a telecommunications company or other customer

84 to enter and exit the local exchange telecommunications network in order to originate or
85 terminate interexchange telecommunications service;

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

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

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

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

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

111 (23) "Interexchange telecommunications company", any company engaged in the
112 provision of interexchange telecommunications service;

113 (24) "Interexchange telecommunications service", telecommunications service between
114 points in two or more exchanges;

115 (25) "InterLATA", interexchange telecommunications service between points in different
116 local access and transportation areas;

117 (26) "IntraLATA", interexchange telecommunications service between points within the
118 same local access and transportation area;

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

124 (28) "Line" includes route;

125 (29) "Local access and transportation area" or "LATA", contiguous geographic area
126 approved by the U.S. District Court for the District of Columbia in *United States v. Western*
127 *Electric*, Civil Action No. 82-0192 that defines the permissible areas of operations for the Bell
128 Operating companies;

129 (30) "Local exchange telecommunications company", any company engaged in the
130 provision of local exchange telecommunications service. A local exchange telecommunications
131 company shall be considered a "large local exchange telecommunications company" if it has at
132 least one hundred thousand access lines in Missouri and a "small local exchange
133 telecommunications company" if it has less than one hundred thousand access lines in Missouri;

134 (31) "Local exchange telecommunications service", telecommunications service between
135 points within an exchange;

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

142 (33) "Municipality" includes a city, village or town;

143 (34) "Nonbasic telecommunications services" shall be all regulated telecommunications
144 services other than basic local and exchange access telecommunications services, and shall
145 include the services identified in paragraphs (d) and (e) of subdivision (4) of this section. Any
146 retail telecommunications service offered for the first time after August 28, 1996, shall be
147 classified as a nonbasic telecommunications service, including any new service which does not
148 replace an existing service;

149 (35) "Noncompetitive telecommunications company", a telecommunications company
150 other than a competitive telecommunications company or a transitionally competitive
151 telecommunications company;

152 (36) "Noncompetitive telecommunications service", a telecommunications service other
153 than a competitive or transitionally competitive telecommunications service;

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

158 (38) "Operator services contract", any agreement between a traffic aggregator and a
159 certificated interexchange telecommunications company to provide operator services at a traffic
160 aggregator location;

161 (39) "Person" includes an individual, and a firm or copartnership;

162 (40) "Private shared tenant services" includes the provision of telecommunications and
163 information management services and equipment within a user group located in discrete private
164 premises as authorized by the commission by a commercial-shared services provider or by a user
165 association, through privately owned customer premises equipment and associated data
166 processing and information management services and includes the provision of connections to
167 the facilities of local exchange telecommunications companies and to interexchange
168 telecommunications companies;

169 (41) "Private telecommunications system", a telecommunications system controlled by
170 a person or corporation for the sole and exclusive use of such person, corporation or legal or
171 corporate affiliate thereof;

172 (42) "Public utility" includes every pipeline corporation, gas corporation, electrical
173 corporation, telecommunications company, water corporation, heat or refrigerating corporation,
174 and sewer corporation, as these terms are defined in this section, and each thereof is hereby
175 declared to be a public utility and to be subject to the jurisdiction, control and regulation of the
176 commission and to the provisions of this chapter;

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

182 (44) "Railroad corporation" includes every corporation, company, association, joint stock
183 company or association, partnership and person, their lessees, trustees or receivers appointed by
184 any court whatsoever, owning, holding, operating, controlling or managing any railroad or
185 railway as defined in this section, or any cars or other equipment used thereon or in connection
186 therewith;

187 (45) "Rate", every individual or joint rate, fare, toll, charge, reconsigning charge,
188 switching charge, rental or other compensation of any corporation, person or public utility, or any
189 two or more such individual or joint rates, fares, tolls, charges, reconsigning charges, switching

190 charges, rentals or other compensations of any corporation, person or public utility or any
191 schedule or tariff thereof;

192 (46) "Resale of telecommunications service", the offering or providing of
193 telecommunications service primarily through the use of services or facilities owned or provided
194 by a separate telecommunications company, but does not include the offering or providing of
195 private shared tenant services;

196 (47) "Service" includes not only the use and accommodations afforded consumers or
197 patrons, but also any product or commodity furnished by any corporation, person or public utility
198 and the plant, equipment, apparatus, appliances, property and facilities employed by any
199 corporation, person or public utility in performing any service or in furnishing any product or
200 commodity and devoted to the public purposes of such corporation, person or public utility, and
201 to the use and accommodation of consumers or patrons;

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

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

211 (50) "Street railroad" includes every railroad by whatsoever type of power operated, and
212 all extensions and branches thereof and supplementary facilities thereto by whatsoever type of
213 vehicle operated, for public use in the conveyance of persons or property for compensation,
214 mainly providing local transportation service upon the streets, highways and public places in a
215 municipality, or in and adjacent to a municipality, and including all cars, buses and other rolling
216 stock, equipment, switches, spurs, tracks, poles, wires, conduits, cables, subways, tunnels,
217 stations, terminals and real estate of every kind used, operated or owned in connection therewith
218 but this term shall not include light rail as defined in this section; and the term "street railroad"
219 when used in this chapter shall also include all motor bus and trolley bus lines and routes and
220 similar local transportation facilities, and the rolling stock and other equipment thereof and the
221 appurtenances thereto, when operated as a part of a street railroad or trolley bus local
222 transportation system, or in conjunction therewith or supplementary thereto, but such term shall
223 not include a railroad constituting or used as part of a trunk line railroad system and any street
224 railroad as defined above which shall be converted wholly to motor bus operation shall
225 nevertheless continue to be included within the term "street railroad" as used herein;

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

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

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

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

(b) Answering services and paging services;

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

(d) Services provided by a hospital, hotel, motel, or other similar business whose principal service is the provision of temporary lodging through the owning or operating of message switching or billing equipment solely for the purpose of providing at a charge telecommunications services to its temporary patients or guests;

(e) Services provided by a private telecommunications system;

(f) Cable television service;

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

(h) [Electronic publishing services; or

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

(i) Directory assistance;

(j) Operator services;

262 **(k) Late payment charges; or**

263 **(l) Insufficient funds charges, return check charges, or similar charges;**

264 (54) "Telephone cooperative", every corporation defined as a telecommunications
265 company in this section, in which at least ninety percent of those persons and corporations
266 subscribing to receive local telecommunications service from the corporation own at least ninety
267 percent of the corporation's outstanding and issued capital stock and in which no subscriber owns
268 more than two shares of the corporation's outstanding and issued capital stock;

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

273 (56) "Transitionally competitive telecommunications company", an interexchange
274 telecommunications company which provides any noncompetitive or transitionally competitive
275 telecommunications service, except for an interexchange telecommunications company which
276 provides only noncompetitive telecommunications service;

277 (57) "Transitionally competitive telecommunications service", a telecommunications
278 service offered by a noncompetitive or transitionally competitive telecommunications company
279 and classified as transitionally competitive by the commission pursuant to section 392.361 or
280 392.370, RSMo;

281 (58) "Water corporation" includes every corporation, company, association, joint stock
282 company or association, partnership and person, their lessees, trustees, or receivers appointed by
283 any court whatsoever, owning, operating, controlling or managing any plant or property, dam or
284 water supply, canal, or power station, distributing or selling for distribution, or selling or
285 supplying for gain any water;

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

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