

SECOND REGULAR SESSION

HOUSE BILL NO. 2028

100TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE MORSE (151).

3773H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 91.025 and 393.106, RSMo, and to enact in lieu thereof two new sections relating to utility service.

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

Section A. Sections 91.025 and 393.106, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 91.025 and 393.106, to read as follows:

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

(1) "Municipally owned or operated electric power system", a system for the distribution of electrical power and energy to the inhabitants of a municipality which is owned and operated by the municipality itself, whether operated under authority pursuant to this chapter or under a charter form of government;

(2) "Permanent service", electrical service provided through facilities which have been permanently installed on a structure and which are designed to provide electric service for the structure's anticipated needs for the indefinite future, as contrasted with facilities installed temporarily to provide electrical service during construction. Service provided temporarily shall be at the risk of the electrical supplier and shall not be determinative of the rights of the provider or recipient of permanent service;

(3) "Structure" or "structures", an agricultural, residential, commercial, industrial or other building or a mechanical installation, machinery or apparatus at which retail electric energy is being delivered through a metering device which is located on or adjacent to the structure and connected to the lines of an electrical corporation, rural electric cooperative, municipally owned or operated electric power system, or joint municipal utility commission. Such terms shall include any contiguous or adjacent additions to or expansions of a particular structure. ~~Nothing~~

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.

20 ~~in this section shall be construed to confer any right on an electric supplier to serve new~~
21 ~~structures on a particular tract of land because it was serving an existing structure on that tract.]~~
22 **New structures on a tract of land may be served by the electrical supplier that serves the**
23 **other structures on the tract, even if a new territorial agreement has been approved under**
24 **section 394.312.**

25 2. Once a municipally owned or operated electrical system, or its predecessor in interest,
26 lawfully commences supplying retail electric energy to a structure through permanent service
27 facilities, it shall have the right to continue serving such structure, and other suppliers of
28 electrical energy shall not have the right to provide service to the structure except as might be
29 otherwise permitted in the context of municipal annexation, pursuant to section 386.800, or
30 pursuant to a territorial agreement approved under section 394.312. **The right to continue**
31 **serving such structures shall continue even if the ownership of the property is transferred,**
32 **at the discretion of the new property owner.** The public service commission, upon application
33 made by a customer, may order a change of suppliers on the basis that it is in the public interest
34 for a reason other than a rate differential, and the commission is hereby given jurisdiction over
35 municipally owned or operated electric systems to accomplish the purpose of this section. The
36 commission's jurisdiction under this section is limited to public interest determinations and
37 excludes questions as to the lawfulness of the provision of service, such questions being reserved
38 to courts of competent jurisdiction. Except as provided in this section, nothing in this section
39 shall be construed as otherwise conferring upon the commission jurisdiction over the service,
40 rates, financing, accounting or management of any such municipally owned or operated electrical
41 system, and nothing in this section, section 393.106, and section 394.315 shall affect the rights,
42 privileges or duties of any municipality to form or operate municipally owned or operated
43 electrical systems. Nothing in this section shall be construed to make lawful any provision of
44 service which was unlawful prior to July 11, 1991. Nothing in this section shall be construed
45 to make unlawful the continued lawful provision of service to any structure which may have had
46 a different supplier in the past, if such a change in supplier was lawful at the time it occurred.

47 **3. Notwithstanding subsection 2 of this section, a property owner whose property**
48 **is located on the boundary line of a territorial agreement under section 394.312 may choose**
49 **the electrical service provider that is most convenient and cost-effective without applying**
50 **to the public service commission.**

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

2 (1) "Permanent service", electrical service provided through facilities which have been
3 permanently installed on a structure and which are designed to provide electric service for the
4 structure's anticipated needs for the indefinite future, as contrasted with facilities installed
5 temporarily to provide electrical service during construction. Service provided temporarily shall

6 be at the risk of the electrical supplier and shall not be determinative of the rights of the provider
7 or recipient of permanent service;

8 (2) "Structure" or "structures", an agricultural, residential, commercial, industrial or other
9 building or a mechanical installation, machinery or apparatus at which retail electric energy is
10 being delivered through a metering device which is located on or adjacent to the structure and
11 connected to the lines of an electrical supplier. Such terms shall include any contiguous or
12 adjacent additions to or expansions of a particular structure. ~~[Nothing in this section shall be
13 construed to confer any right on an electric supplier to serve new structures on a particular tract
14 of land because it was serving an existing structure on that tract.]~~ **New structures on a tract of
15 land may be served by the electrical supplier that serves the other structures on the tract,
16 even if a new territorial agreement has been approved under section 394.312.**

17 2. Once an electrical corporation or joint municipal utility commission, or its predecessor
18 in interest, lawfully commences supplying retail electric energy to a structure through permanent
19 service facilities, it shall have the right to continue serving such structure, and other suppliers
20 of electrical energy shall not have the right to provide service to the structure except as might be
21 otherwise permitted in the context of municipal annexation, pursuant to section 386.800 and
22 section 394.080, or pursuant to a territorial agreement approved under section 394.312. **The
23 right to continue serving such structures shall continue even if the ownership of the
24 property is transferred, at the discretion of the new property owner.** The public service
25 commission, upon application made by an affected party, may order a change of suppliers on the
26 basis that it is in the public interest for a reason other than a rate differential. The commission's
27 jurisdiction under this section is limited to public interest determinations and excludes questions
28 as to the lawfulness of the provision of service, such questions being reserved to courts of
29 competent jurisdiction. Except as provided in this section, nothing contained herein shall affect
30 the rights, privileges or duties of existing corporations pursuant to this chapter. Nothing in this
31 section shall be construed to make lawful any provision of service which was unlawful prior to
32 July 11, 1991. Nothing in this section shall be construed to make unlawful the continued lawful
33 provision of service to any structure which may have had a different supplier in the past, if such
34 a change in supplier was lawful at the time it occurred. However, those customers who had
35 cancelled service with their previous supplier or had requested cancellation by May 1, 1991, shall
36 be eligible to change suppliers as per previous procedures. No customer shall be allowed to
37 change electric suppliers by disconnecting service between May 1, 1991, and July 11, 1991.

38 **3. Notwithstanding subsection 2 of this section, a property owner whose property**
39 **is located on the boundary line of a territorial agreement under section 394.312 may choose**
40 **the electrical service provider that is most convenient and cost-effective without applying**
41 **to the public service commission.**

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