

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 835
101ST GENERAL ASSEMBLY

1544H.04C

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal section 393.106, RSMo, and to enact in lieu thereof one new section relating to electric energy.

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

Section A. Section 393.106, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 393.106, to read as follows:

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

(1) **"Auxiliary power", the energy used to operate equipment and other load that is directly related to the production of energy by an independent power producer or electrical corporation, obtained through generation at the site or through adjacent transformation and transmission interconnect, but does not include energy used for space heating, lighting, air conditioning, office needs of buildings, and other non-generating uses at the generation site;**

(2) **"Independent power producer" or "IPP", an entity that is also considered a non-utility power producer in the United States. IPPs are wholesale electricity producers that operate within the franchised service territories of host utilities and are usually authorized to sell at market-based rates. Unlike traditional electric utilities, IPPs do not possess transmission facilities or sell electricity in the retail market;**

(3) **"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;**

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.

19 ~~[(2)]~~ (4) "Structure" or "structures", an agricultural, residential, commercial, industrial
20 or other building or a mechanical installation, machinery or apparatus at which retail electric
21 energy is being delivered through a metering device which is located on or adjacent to the
22 structure and connected to the lines of an electrical supplier. Such terms shall include any
23 contiguous or adjacent additions to or expansions of a particular structure. Nothing in this
24 section shall be construed to confer any right on an electric supplier to serve new structures on
25 a particular tract of land because it was serving an existing structure on that tract.

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

46 **3. Notwithstanding the provisions of subsection 2 of this section or any other**
47 **provision of chapters 386 or 394 to the contrary, auxiliary power may be purchased on a**
48 **wholesale basis, under the applicable federal tariffs of a regional transmission organization**
49 **instead of under retail service tariffs filed with the public service commission by an**
50 **electrical corporation, for use at an electric generation facility located in any county of the**
51 **first classification with more than ninety-two thousand but fewer than one hundred one**
52 **thousand inhabitants which commenced commercial operations prior to August 28, 2021,**
53 **and which is operated as an independent power producer.**

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