

SECOND REGULAR SESSION

HOUSE BILL NO. 3437

103RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE BOYKO.

7389H.011

JOSEPH ENGLER, Chief Clerk

AN ACT

To repeal section 393.190, RSMo, and to enact in lieu thereof one new section relating to certain transactions involving public utilities.

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

Section A. Section 393.190, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 393.190, to read as follows:

393.190. 1. No gas corporation, electrical corporation, water corporation or sewer corporation shall hereafter sell, assign, lease, transfer, mortgage or otherwise dispose of or encumber the whole or any part of its franchise, works or system, necessary or useful in the performance of its duties to the public, nor by any means, direct or indirect, merge or consolidate such works or system, or franchises, or any part thereof, with any other corporation, person or public utility, without having first secured from the commission an order authorizing it so to do. Every such sale, assignment, lease, transfer, mortgage, disposition, encumbrance, merger or consolidation made other than in accordance with the order of the commission authorizing same shall be void. The permission and approval of the commission to the exercise of a franchise or permit under this chapter, or the sale, assignment, lease, transfer, mortgage or other disposition or encumbrance of a franchise or permit under this section shall not be construed to revive or validate any lapsed or invalid franchise or permit, or to enlarge or add to the powers or privileges contained in the grant of any franchise or permit, or to waive any forfeiture. Any person seeking any order under this subsection authorizing the sale, assignment, lease, transfer, merger, consolidation or other disposition, direct or indirect, of any gas corporation, electrical corporation, water corporation, or sewer corporation, shall, at the time of application for any such order, file with the commission a

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.

18 statement, in such form, manner and detail as the commission shall require, as to what, if any,
19 impact such sale, assignment, lease, transfer, merger, consolidation, or other disposition will
20 have on the tax revenues of the political subdivisions in which any structures, facilities or
21 equipment of the corporations involved in such disposition are located. The commission shall
22 send a copy of all information obtained by it as to what, if any, impact such sale, assignment,
23 lease, transfer, merger, consolidation or other disposition will have on the tax revenues of
24 various political subdivisions to the county clerk of each county in which any portion of a
25 political subdivision which will be affected by such disposition is located. Nothing in this
26 subsection contained shall be construed to prevent the sale, assignment, lease or other
27 disposition by any corporation, person or public utility of a class designated in this subsection
28 of property which is not necessary or useful in the performance of its duties to the public, and
29 any sale of its property by such corporation, person or public utility shall be conclusively
30 presumed to have been of property which is not useful or necessary in the performance of its
31 duties to the public, as to any purchaser of such property in good faith for value.

32 2. No such corporation shall directly or indirectly acquire the stock or bonds of any
33 other corporation incorporated for, or engaged in, the same or a similar business, or proposing
34 to operate or operating under a franchise from the same or any other municipality; neither
35 shall any street railroad corporation acquire the stock or bonds of any electrical corporation,
36 unless, in either case, authorized so to do by the commission. Save where stock shall be
37 transferred or held for the purpose of collateral security, no stock corporation of any
38 description, domestic or foreign, other than a gas corporation, electrical corporation, water
39 corporation, sewer corporation or street railroad corporation, shall, without the consent of the
40 commission, purchase or acquire, take or hold, more than ten percent of the total capital stock
41 issued by any gas corporation, electrical corporation, water corporation or sewer corporation
42 organized or existing under or by virtue of the laws of this state, except that a corporation now
43 lawfully holding a majority of the capital stock of any gas corporation, electrical corporation,
44 water corporation or sewer corporation may, with the consent of the commission, acquire and
45 hold the remainder of the capital stock of such gas corporation, electrical corporation, water
46 corporation or sewer corporation, or any portion thereof.

47 3. No person, public utility, or other corporation shall purchase or acquire, take, or
48 hold fifty percent or more of the total capital stock issued by any sewer or water corporation
49 that regularly provides service to eight thousand or fewer customers without notifying the
50 commission within thirty days of said acquisition.

51 4. Notwithstanding subsection 3 of this section, any sewer or water corporation that
52 regularly provides service to eight thousand or fewer customers that is delinquent in filing its
53 public service commission annual report or is six months or more delinquent in paying its
54 public service commission assessment or is in violation of any other public service

55 commission or Missouri department of natural resources rules or regulations shall not sell or
56 transfer fifty percent or more of its total capital stock issued without the consent of the
57 commission.

58 5. Nothing herein contained shall be construed to prevent the holding of stock
59 heretofore lawfully acquired, or to prevent upon the surrender or exchange of said stock
60 pursuant to a reorganization plan, the purchase, acquisition, taking or holding of a
61 proportionate amount of stock of any new corporation organized to take over, at foreclosure
62 or other sale, the property of any corporation whose stock has been thus surrendered or
63 exchanged. Every contract, assignment, transfer or agreement for transfer of any stock by or
64 through any person or corporation to any corporation in violation of any provision of this
65 chapter shall be void and of no effect, and no such transfer or assignment shall be made upon
66 the books of any such gas corporation, electrical corporation, water corporation or sewer
67 corporation or shall be recognized as effective for any purpose.

68 **6. No sale, assignment, lease, transfer, mortgage, disposition, encumbrance,**
69 **merger, or consolidation of a public utility, as defined in section 386.020, shall be**
70 **permitted unless the public service commission makes a finding that such transaction is**
71 **in the public interest.**

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