

House _____ Amendment NO. _____

Offered By

1 AMEND House Committee Substitute for House Bill No. 835, Page 2, Section 393.106, Line 53, by
2 inserting after all of said section and line the following:

3
4 "393.137. 1. [~~This section applies to electrical corporations that do not have a general rate~~
5 ~~proceeding pending before the commission as of the later of February 1, 2018, or June 1, 2018.~~

6 ~~—2.] For purposes of this section, the following terms shall mean:~~

7 (1) "Commission", the public service commission;

8 (2) "Tax legislation", additions, deletions, or amendments to the Internal Revenue Code,
9 Title 26 of the United States Code, to the Missouri income tax code, or regulations adopted under
10 chapter 143;

11 (3) [~~"Electrical corporation", the same as] "Utility", an electrical corporation, gas
12 corporation, water corporation, or sewer corporation, as defined in section 386.020[~~, but~~]. "Utility"
13 shall not include an electrical corporation as described in subsection 2 of section 393.110.~~

14 [~~3. If the rates of any electrical corporation to which this section applies have not already~~
15 ~~been adjusted to reflect the effects of the federal 2017 Tax Cut and Jobs Act, Pub. L. No. 115-97, 94~~
16 ~~Stat. 2390, the commission shall have one time authority that shall be exercised within ninety days~~
17 ~~of June 1, 2018, to adjust such electrical corporation's rates prospectively so that the income tax~~
18 ~~component of the revenue requirement used to set such an electrical corporation's rates is based~~
19 ~~upon the provisions of such federal act without considering any other factor as otherwise required~~
20 ~~by section 393.270. The commission shall also require electrical corporations to which this section~~
21 ~~applies, as provided for under subsection 1 of this section, to defer to a regulatory asset the financial~~
22 ~~impact of such federal act on the electrical corporation for the period of January 1, 2018, through the~~
23 ~~date the electrical corporation's rates are adjusted on a one-time basis as provided for in the~~
24 ~~immediately preceding sentence. The amounts deferred under this subsection shall be included in~~
25 ~~the revenue requirement used to set the electrical corporation's rates in its subsequent general rate~~
26 ~~proceeding through an amortization over a period determined by the commission.]~~

27 2. If the United States Congress or general assembly enacts tax legislation that, had it been
28 effective when the utility's base rates were last set, would have resulted in a lower income tax
29 component of the revenue requirement used to last set such base rates, the commission shall have
30 the authority to, within one hundred eighty days of the enacted date of the subject tax legislation,
31 enter an order adjusting such utility's base rates prospectively so that the income tax component of
32 the revenue requirement used to set such utility's base rates is based upon the provisions of such tax
33 legislation without considering any other factor as otherwise required by section 393.270. As part
34 of its exercise of such authority, the commission shall also require the utility to defer to a regulatory
35 liability an amount equal to the difference between what the income tax component of the revenue
36 requirement last used to set its base rates was under the law at that time and what the income tax

Action Taken _____ Date _____

1 component of the revenue requirement would have been had such tax legislation been in effect at
2 that time. The deferral period shall commence with the date such tax legislation would have
3 resulted in a lower income tax component of such revenue requirement last used to set the utility's
4 base rates and continue through the date the utility's base rates are next adjusted. The amounts
5 deferred under this subsection shall be included in the revenue requirement used to set the utility's
6 base rates in its subsequent general rate proceedings through amortization over a period of up to
7 three years, as determined by the commission.

8 [4.] 3. Upon good cause shown by [the electrical corporation] a utility, the commission may,
9 as an alternative to requiring a [one-time] rate change and deferral under subsection [3] 2 of this
10 section, allow a deferral to a regulatory liability, in whole or in part, of [such federal act's financial
11 impacts to a regulatory asset starting January 1, 2018,] the amounts that would have been reflected
12 in a base rate reduction under subsection 2 of this section. The deferral period shall commence on
13 the date such tax legislation would have resulted in a lower income tax component and continue
14 through the effective date of new rates in such [electrical corporation's] utility's next general rate
15 proceeding. The deferred amounts shall be included in the revenue requirement used to set the
16 [electrical corporation's] utility's rates in its subsequent general rate proceeding through an
17 amortization over a period determined by the commission.

18 4. If the United States Congress or general assembly enacts tax legislation that, had it been
19 in effect when the utility's base rates were last set, would have resulted in a higher income tax
20 component of the revenue requirement used to last set such base rates, the utility shall be entitled, by
21 giving notice to the commission within one hundred eighty days of the enacted date of such tax
22 legislation, to defer to a regulatory asset an amount equal to the difference between what the income
23 tax component of the revenue requirement used to last set its base rates was under the law at that
24 time and what the income tax component of the revenue requirement would have been had such tax
25 legislation been in effect at that time. The deferral period shall commence on the date such tax
26 legislation would have resulted in a higher income tax component of such revenue requirement last
27 used to set the utility's base rates and continue through the date the utility's base rates are next
28 adjusted as provided for in this subsection. The amounts deferred under this subsection shall be
29 included in the revenue requirement used to set the utility's rates in its subsequent general rate
30 proceedings through amortization over a period of up to three years, as determined by the
31 commission, without considering any other factor as otherwise required by section 393.270.

32 5. If the tax legislation that either reduces or increases the utility's income tax component,
33 under subsection 2 or 4 of this section, does so at a point in time other than beginning with its
34 effective date, or does so in multiple stages at different points in time, the commission order in
35 subsection 1 of this section and the utility's notice in subsection 4 of this section shall be deemed to
36 apply to the first point in time when the income tax component would have been changed and to
37 subsequent changes in such income tax component arising from such tax legislation without the
38 necessity of the commission issuing a subsequent order or the utility providing a subsequent notice,
39 as the case may be. Each such change shall require a separate base rate change, deferral, and
40 amortization period, as applicable.

41 6. If the United States Congress or general assembly has, prior to the effective date of this
42 section, enacted tax legislation that either reduces or increases the utility's income tax component
43 the one-hundred-eighty-day period in subsection 2 and 4 of this section shall commence on the
44 effective date of this section.

45 7. Notwithstanding any other provision of this section to the contrary, the commission's
46 authority to adjust utility rates and require deferrals regarding reductions in the income tax
47 component of a utility's revenue requirement under subsections 2 and 3 of this section, and utility
48 authority to defer and recover increases in the income tax component under subsection 4 of this
49 section, shall not exist unless the addition, deletion, or amendment to tax legislation results in a

1 difference in the income tax component of the utility's revenue requirement, calculated in
 2 accordance with subsection 2 or 4 of this section, as applicable, that is greater than an amount in
 3 excess of two-tenths of one percent of such utility's operating revenues reported to the commission
 4 in such utility's annual report for the calendar year preceding the calendar year in which such
 5 difference is calculated.

6 393.170. 1. No gas corporation, electrical corporation, water corporation or sewer
 7 corporation shall begin construction of a gas plant, electric plant, water system or sewer system,
 8 other than an energy generation unit that has a capacity of one megawatt or less, without first having
 9 obtained the permission and approval of the commission.

10 2. No such corporation shall exercise any right or privilege under any franchise hereafter
 11 granted, or under any franchise heretofore granted but not heretofore actually exercised, or the
 12 exercise of which shall have been suspended for more than one year, without first having obtained
 13 the permission and approval of the commission. Before such certificate shall be issued a certified
 14 copy of the charter of such corporation shall be filed in the office of the commission, together with a
 15 verified statement of the president and secretary of the corporation, showing that it has received the
 16 required consent of the proper municipal authorities.

17 3. (1) Before the commission shall issue an approval under subsection 1 of this section for a
 18 merchant line, an entity shall provide the commission a resolution of support passed by the county
 19 commission of each county through which the merchant line will be built. Any electrical
 20 corporation that begins construction on a merchant line after August 28, 2021, shall provide the
 21 required resolutions to the commission prior to construction, regardless of whether the commission
 22 has previously issued its approval.

23 (2) For the purposes of this subsection, the following terms mean:

24 (a) "Entity", an electrical corporation that does not provide service to end-use customers or
 25 provide retail service in Missouri or does not collect its costs to provide service under a regional
 26 transmission organization tariff;

27 (b) "Merchant line", a high-voltage direct current electric transmission line that does not
 28 provide for the erection of electric substations at intervals of less than fifty miles, which substations
 29 are necessary to accommodate both the purchase and sale to persons located in this state of
 30 electricity generated or transmitted by such entity.

31 4. The commission shall have the power to grant the permission and approval herein
 32 specified whenever it shall after due hearing determine that such construction or such exercise of the
 33 right, privilege or franchise is necessary or convenient for the public service. The commission may
 34 by its order impose such condition or conditions as it may deem reasonable and necessary. Unless
 35 exercised within a period of two years from the grant thereof, authority conferred by such certificate
 36 of convenience and necessity issued by the commission shall be null and void.

37 523.262. 1. Except as set forth in subsection 2 of this section, the power of eminent domain
 38 shall only be vested in governmental bodies or agencies whose governing body is elected or whose
 39 governing body is appointed by elected officials or in an urban redevelopment corporation operating
 40 pursuant to a redevelopment agreement with the municipality for a particular redevelopment area,
 41 which agreement was executed prior to or on December 31, 2006.

42 2. A private utility company, public utility, rural electric cooperative, municipally owned
 43 utility, pipeline, railroad or common carrier shall have the power of eminent domain as may be
 44 granted pursuant to the provisions of other sections of the revised statutes of Missouri. For the
 45 purposes of this section, the term "common carrier" shall not include motor carriers, contract
 46 carriers, or express companies. Where a condemnation by such an entity results in a displaced
 47 person, as defined in section 523.200, the provisions of subsections 3 and 6 to 10 of section 523.205
 48 shall apply unless the condemning entity is subject to the relocation assistance provisions of the
 49 federal Uniform Relocation Assistance Act.

1 3. Any entity with the power of eminent domain and pursuing the acquisition of property for
2 the purpose of constructing a power generation facility after December 31, 2006, after providing
3 notice in a newspaper of general circulation in the county where the facility is to be constructed,
4 shall conduct a public meeting disclosing the purpose of the proposed facility prior to making any
5 offer to purchase property in pursuit thereof or, alternatively, shall provide the property owner with
6 notification of the identity of the condemning authority and the proposed purpose for which the
7 condemned property shall be used at the time of making the initial offer.

8 4. (1) Notwithstanding the provisions of subsection 2 of this section, no entity shall have
9 the power of eminent domain under the provisions of this section for the purpose of constructing
10 above-ground merchant lines.

11 (2) For the purpose of this subsection, the following terms mean:

12 (a) "Entity", a utility company that does not provide service to end-use customers or provide
13 retail service in Missouri, or does not collect its costs to provide service under a regional
14 transmission organization tariff, regardless of whether it has received a certificate of convenience
15 and necessity from the public service commission under section 393.170;

16 (b) "Merchant line", a high-voltage direct current electric transmission line that does not
17 provide for the erection of electric substations at intervals of less than fifty miles, which substations
18 are necessary to accommodate both the purchase and sale to persons located in this state of
19 electricity generated or transmitted by such entity.

20 (3) This subsection shall apply to any property or easement acquisition started on or after
21 August 28, 2021.

22 (4) This subsection shall not apply to any rural electric cooperative organized or operating
23 under the provisions of chapter 394, or to any corporation organized on a nonprofit or a cooperative
24 basis as described in subsection 1 of section 394.200, or to any electrical corporation operating
25 under a cooperative business plan as described in subsection 2 of section 393.110."; and

26
27 Further amend said bill by amending the title, enacting clause, and intersectional references
28 accordingly.