

SECOND REGULAR SESSION

HOUSE BILL NO. 1595

99TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE HIGDON.

4476H.021

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 204.440, 386.020, and 386.250, RSMo, and to enact in lieu thereof three new sections relating to sewer corporations.

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

Section A. Sections 204.440, 386.020, 396.250, RSMo, are repealed and three new
2 sections enacted in lieu thereof, to be known as sections 204.440, 386.020, and 386.250, to read
3 as follows:

204.440. The board of trustees shall impose, charge and collect a reasonable charge from
2 the sewer districts and municipalities, based upon sewage discharge as shown by metering such
3 flows, the volume of water used by the residential, commercial, and industrial establishments'
4 customers within the corporate limits of such district or municipality, or other equitable measure.
5 Such charges shall be fixed at such rate or rates as are recommended to the board of trustees by
6 the advisory board **and approved by the public service commission**; except that such rates
7 shall ensure that the rates fixed will provide sufficient revenues for the operation and
8 maintenance of the system and the payment of principal and interest on all outstanding revenue
9 bonds as provided in sections 204.250 to 204.470.

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

2 (1) "Alternative local exchange telecommunications company", a local exchange
3 telecommunications company certified by the commission to provide basic or nonbasic local
4 telecommunications service or switched exchange access service, or any combination of such
5 services, in a specific geographic area subsequent to December 31, 1995;

6 (2) "Alternative operator services company", any certificated interexchange
7 telecommunications company which receives more than forty percent of its annual Missouri

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.

8 intrastate telecommunications service revenues from the provision of operator services pursuant
9 to operator services contracts with traffic aggregators;

10 (3) "Basic interexchange telecommunications service" includes, at a minimum, two-way
11 switched voice service between points in different local calling scopes as determined by the
12 commission and shall include other services as determined by the commission by rule upon
13 periodic review and update;

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.

31

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 392.245 or 392.361;
- 47 (10) "Competitive telecommunications service", a telecommunications service which
48 has been classified as such by the commission pursuant to section 392.245 or to section 392.361,
49 or which has become a competitive telecommunications service pursuant to section 392.370;
- 50 (11) "Corporation" includes a corporation, company, association and joint stock
51 association or company;
- 52 (12) "Customer-owned pay telephone", a privately owned telecommunications device
53 that is not owned, leased or otherwise controlled by a local exchange telecommunications
54 company and which provides telecommunications services for a use fee to the general public;
- 55 (13) "Effective competition" shall be determined by the commission based on:
- 56 (a) The extent to which services are available from alternative providers in the relevant
57 market;
- 58 (b) The extent to which the services of alternative providers are functionally equivalent
59 or substitutable at comparable rates, terms and conditions;
- 60 (c) The extent to which the purposes and policies of chapter 392, including the
61 reasonableness of rates, as set out in section 392.185, are being advanced;
- 62 (d) Existing economic or regulatory barriers to entry; and
- 63 (e) Any other factors deemed relevant by the commission and necessary to implement
64 the purposes and policies of chapter 392;
- 65 (14) "Electric plant" includes all real estate, fixtures and personal property operated,
66 controlled, owned, used or to be used for or in connection with or to facilitate the generation,
67 transmission, distribution, sale or furnishing of electricity for light, heat or power; and any
68 conduits, ducts or other devices, materials, apparatus or property for containing, holding or
69 carrying conductors used or to be used for the transmission of electricity for light, heat or power;
- 70 (15) "Electrical corporation" includes every corporation, company, association, joint
71 stock company or association, partnership and person, their lessees, trustees or receivers
72 appointed by any court whatsoever, other than a railroad, light rail or street railroad corporation
73 generating electricity solely for railroad, light rail or street railroad purposes or for the use of its
74 tenants and not for sale to others, owning, operating, controlling or managing any electric plant
75 except where electricity is generated or distributed by the producer solely on or through private
76 property for railroad, light rail or street railroad purposes or for its own use or the use of its
77 tenants and not for sale to others;

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

81 (17) "Exchange access service", a service provided by a local exchange
82 telecommunications company which enables a telecommunications company or other customer
83 to enter and exit the local exchange telecommunications network in order to originate or
84 terminate interexchange telecommunications service;

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

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

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

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

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

110 (23) "Interconnected voice over internet protocol service", service that:

111 (a) Enables real-time, two-way voice communications;

112 (b) Requires a broadband connection from the user's location;

113 (c) Requires internet protocol-compatible customer premises equipment; and

114 (d) Permits users generally to receive calls that originate on the public switched
115 telephone network and to terminate calls to the public switched telephone network;

116 (24) "Interexchange telecommunications company", any company engaged in the
117 provision of interexchange telecommunications service;

118 (25) "Interexchange telecommunications service", telecommunications service between
119 points in two or more exchanges;

120 (26) "InterLATA", interexchange telecommunications service between points in different
121 local access and transportation areas;

122 (27) "IntraLATA", interexchange telecommunications service between points within the
123 same local access and transportation area;

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

129 (29) "Line" includes route;

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

134 (31) "Local exchange telecommunications company", any company engaged in the
135 provision of local exchange telecommunications service. A local exchange telecommunications
136 company shall be considered a "large local exchange telecommunications company" if it has at
137 least one hundred thousand access lines in Missouri and a "small local exchange
138 telecommunications company" if it has less than one hundred thousand access lines in Missouri;

139 (32) "Local exchange telecommunications service", telecommunications service between
140 points within an exchange;

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

147 (34) "Municipality" includes a city, village or town;

148 (35) "Nonbasic telecommunications services" shall be all regulated telecommunications
149 services other than basic local and exchange access telecommunications services, and shall

150 include the services identified in paragraphs (d) and (e) of subdivision (4) of this section. Any
151 retail telecommunications service offered for the first time after August 28, 1996, shall be
152 classified as a nonbasic telecommunications service, including any new service which does not
153 replace an existing service;

154 (36) "Noncompetitive telecommunications company", a telecommunications company
155 other than a competitive telecommunications company or a transitionally competitive
156 telecommunications company;

157 (37) "Noncompetitive telecommunications service", a telecommunications service other
158 than a competitive or transitionally competitive telecommunications service;

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

163 (39) "Operator services contract", any agreement between a traffic aggregator and a
164 certificated interexchange telecommunications company to provide operator services at a traffic
165 aggregator location;

166 (40) "Person" includes an individual, and a firm or copartnership;

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

174 (42) "Private telecommunications system", a telecommunications system controlled by
175 a person or corporation for the sole and exclusive use of such person, corporation or legal or
176 corporate affiliate thereof;

177 (43) "Public utility" includes every pipeline corporation, gas corporation, electrical
178 corporation, telecommunications company, water corporation, heat or refrigerating corporation,
179 and sewer corporation, as these terms are defined in this section, and each thereof is hereby
180 declared to be a public utility and to be subject to the jurisdiction, control and regulation of the
181 commission and to the provisions of this chapter;

182 (44) "Railroad" includes every railroad and railway, other than street railroad or light rail,
183 by whatsoever power operated for public use in the conveyance of persons or property for
184 compensation, with all bridges, ferries, tunnels, equipment, switches, spurs, tracks, stations, real

185 estate and terminal facilities of every kind used, operated, controlled or owned by or in
186 connection with any such railroad;

187 (45) "Railroad corporation" includes every corporation, company, association, joint stock
188 company or association, partnership and person, their lessees, trustees or receivers appointed by
189 any court whatsoever, owning, holding, operating, controlling or managing any railroad or
190 railway as defined in this section, or any cars or other equipment used thereon or in connection
191 therewith;

192 (46) "Rate", every individual or joint rate, fare, toll, charge, reconsigning charge,
193 switching charge, rental or other compensation of any corporation, person or public utility, or any
194 two or more such individual or joint rates, fares, tolls, charges, reconsigning charges, switching
195 charges, rentals or other compensations of any corporation, person or public utility or any
196 schedule or tariff thereof;

197 (47) "Resale of telecommunications service", the offering or providing of
198 telecommunications service primarily through the use of services or facilities owned or provided
199 by a separate telecommunications company, but does not include the offering or providing of
200 private shared tenant services;

201 (48) "Service" includes not only the use and accommodations afforded consumers or
202 patrons, but also any product or commodity furnished by any corporation, person or public utility
203 and the plant, equipment, apparatus, appliances, property and facilities employed by any
204 corporation, person or public utility in performing any service or in furnishing any product or
205 commodity and devoted to the public purposes of such corporation, person or public utility, and
206 to the use and accommodation of consumers or patrons;

207 (49) "Sewer corporation" includes every corporation, company, association,
208 **municipality**, joint stock company or association, partnership or person, their lessees, trustees
209 or receivers appointed by any court, owning, operating, controlling or managing any sewer
210 system, plant or property, for the collection, carriage, treatment, or disposal of sewage anywhere
211 within the state for gain, except that the term shall not include sewer systems with fewer than
212 twenty-five outlets;

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

217 (51) "Street railroad" includes every railroad by whatsoever type of power operated, and
218 all extensions and branches thereof and supplementary facilities thereto by whatsoever type of
219 vehicle operated, for public use in the conveyance of persons or property for compensation,
220 mainly providing local transportation service upon the streets, highways and public places in a

221 municipality, or in and adjacent to a municipality, and including all cars, buses and other rolling
222 stock, equipment, switches, spurs, tracks, poles, wires, conduits, cables, subways, tunnels,
223 stations, terminals and real estate of every kind used, operated or owned in connection therewith
224 but this term shall not include light rail as defined in this section; and the term "street railroad"
225 when used in this chapter shall also include all motor bus and trolley bus lines and routes and
226 similar local transportation facilities, and the rolling stock and other equipment thereof and the
227 appurtenances thereto, when operated as a part of a street railroad or trolley bus local
228 transportation system, or in conjunction therewith or supplementary thereto, but such term shall
229 not include a railroad constituting or used as part of a trunk line railroad system and any street
230 railroad as defined above which shall be converted wholly to motor bus operation shall
231 nevertheless continue to be included within the term street railroad as used herein;

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

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

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

245 (a) The rent, sale, lease, or exchange for other value received of customer premises
246 equipment except for customer premises equipment owned by a telephone company certificated
247 or otherwise authorized to provide telephone service prior to September 28, 1987, and provided
248 under tariff or in inventory on January 1, 1983, which must be detariffed no later than December
249 31, 1987, and thereafter the provision of which shall not be a telecommunications service, and
250 except for customer premises equipment owned or provided by a telecommunications company
251 and used for answering 911 or emergency calls;

252 (b) Answering services and paging services;

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

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

260 (e) Services provided by a private telecommunications system;

261 (f) Cable television service;

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

263 (h) Electronic publishing services;

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

266 (j) Interconnected voice over internet protocol service;

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

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

276 (57) "Transitionally competitive telecommunications company", an interexchange
277 telecommunications company which provides any noncompetitive or transitionally competitive
278 telecommunications service, except for an interexchange telecommunications company which
279 provides only noncompetitive telecommunications service;

280 (58) "Transitionally competitive telecommunications service", a telecommunications
281 service offered by a noncompetitive or transitionally competitive telecommunications company
282 and classified as transitionally competitive by the commission pursuant to section 392.361 or
283 392.370;

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

289 (60) "Water system" includes all reservoirs, tunnels, shafts, dams, dikes, headgates,
290 pipes, flumes, canals, structures and appliances, and all other real estate, fixtures and personal
291 property, owned, operated, controlled or managed in connection with or to facilitate the

292 diversion, development, storage, supply, distribution, sale, furnishing or carriage of water for
293 municipal, domestic or other beneficial use.

386.250. The jurisdiction, supervision, powers and duties of the public service
2 commission herein created and established shall extend under this chapter:

3 (1) To the manufacture, sale or distribution of gas, natural and artificial, and electricity
4 for light, heat and power, within the state, and to persons or corporations owning, leasing,
5 operating or controlling the same; and to gas and electric plants, and to persons or corporations
6 owning, leasing, operating or controlling the same;

7 (2) To all telecommunications facilities, telecommunications services and to all
8 telecommunications companies so far as such telecommunications facilities are operated or
9 utilized by a telecommunications company to offer or provide telecommunications service
10 between one point and another within this state or so far as such telecommunications services
11 are offered or provided by a telecommunications company between one point and another within
12 this state, except that nothing contained in this section shall be construed as conferring
13 jurisdiction upon the commission over the rates charged by a telephone cooperative for providing
14 telecommunications service within an exchange or within a local calling scope as determined by
15 the commission, except for exchange access service;

16 (3) To all water corporations, and to the land, property, dams, water supplies, or power
17 stations thereof and the operation of same within this state, except that nothing contained in this
18 section shall be construed as conferring jurisdiction upon the commission over the service or
19 rates of any municipally owned water plant or system in any city of this state except where such
20 service or rates are for water to be furnished or used beyond the corporate limits of such
21 municipality;

22 (4) To all sewer systems and their operations within this state and to persons or
23 corporations owning, leasing, operating or controlling the same, **including municipal sewer**
24 **districts**;

25 (5) To all public utility corporations and persons whatsoever subject to the provisions
26 of this chapter as herein defined, except that the public service commission may, upon
27 application of any interested person, decline jurisdiction and supervision over the sale and
28 distribution of electricity and the owning, operating, and controlling of related plant if such sale
29 and distribution is by a person authorized to provide such services in an adjoining state with
30 fewer than twenty residential customers in Missouri, all of whom are located within two miles
31 of the borders of the state of Missouri and if such customers are unable to receive utility services
32 from an investor-owner utility or rural electric cooperative due to a natural barrier. If the public
33 service commission shall decline such jurisdiction and supervision, the Missouri customers of

34 such out-of-state utility shall receive services under the same terms and conditions as the utility
35 provides service to its customers in the nearest adjoining state;

36 (6) To the adoption of rules as are supported by evidence as to reasonableness and which
37 prescribe the conditions of rendering public utility service, disconnecting or refusing to reconnect
38 public utility service and billing for public utility service. All such proposed rules shall be filed
39 with the secretary of state and published in the Missouri Register as provided in chapter 536, and
40 a hearing shall be held at which affected parties may present evidence as to the reasonableness
41 of any proposed rule; and

42 (7) To such other and further extent, and to all such other and additional matters and
43 things, and in such further respects as may herein appear, either expressly or impliedly.

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