

FIRST EXTRAORDINARY SESSION

# HOUSE BILL NO. 2

99TH GENERAL ASSEMBLY

---

INTRODUCED BY REPRESENTATIVE MERIDETH (80).

2410H.011

D. ADAM CRUMBLISS, Chief Clerk

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## AN ACT

To repeal section 386.020, RSMo, and to enact in lieu thereof two new sections relating to public utility ratemaking, with an emergency clause.

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

Section A. Section 386.020, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 386.020 and 393.362, to read as follows:

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

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

(2) "Alternative operator services company", any certificated interexchange telecommunications company which receives more than forty percent of its annual Missouri intrastate telecommunications service revenues from the provision of operator services pursuant to operator services contracts with traffic aggregators;

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

(4) "Basic local telecommunications service", two-way switched voice service within a local calling scope as determined by the commission comprised of any of the following services and their recurring and nonrecurring charges:

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.

- 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) **"Industrial energy user", a facility with a minimum annual peak demand of**  
111 **one megawatt; provided that, a single industrial energy user may aggregate multiple**  
112 **metered delivery locations to satisfy the minimum megawatt threshold;**

113 (24) "Interconnected voice over internet protocol service", service that:

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

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

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

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

119 [~~24~~] (25) "Interexchange telecommunications company", any company engaged in the  
120 provision of interexchange telecommunications service;

121 [~~25~~] (26) "Interexchange telecommunications service", telecommunications service  
122 between points in two or more exchanges;

123           ~~[(26)]~~ **(27)** "InterLATA", interexchange telecommunications service between points in  
124 different local access and transportation areas;

125           ~~[(27)]~~ **(28)** "IntraLATA", interexchange telecommunications service between points  
126 within the same local access and transportation area;

127           ~~[(28)]~~ **(29)** "Light rail" includes every rail transportation system in which one or more  
128 rail vehicles are propelled electrically by overhead catenary wire upon tracks located  
129 substantially within an urban area and are operated exclusively in the transportation of  
130 passengers and their baggage, and including all bridges, tunnels, equipment, switches, spurs,  
131 tracks, stations, used in connection with the operation of light rail;

132           ~~[(29)]~~ **(30)** "Line" includes route;

133           ~~[(30)]~~ **(31)** "Local access and transportation area" or "LATA", contiguous geographic  
134 area approved by the U.S. District Court for the District of Columbia in *United States v. Western*  
135 *Electric*, Civil Action No. 82-0192 that defines the permissible areas of operations for the Bell  
136 Operating companies;

137           ~~[(31)]~~ **(32)** "Local exchange telecommunications company", any company engaged in  
138 the provision of local exchange telecommunications service. A local exchange  
139 telecommunications company shall be considered a "large local exchange telecommunications  
140 company" if it has at least one hundred thousand access lines in Missouri and a "small local  
141 exchange telecommunications company" if it has less than one hundred thousand access lines  
142 in Missouri;

143           ~~[(32)]~~ **(33)** "Local exchange telecommunications service", telecommunications service  
144 between points within an exchange;

145           ~~[(33)]~~ **(34)** "Long-run incremental cost", the change in total costs of the company of  
146 producing an increment of output in the long run when the company uses least cost technology,  
147 and excluding any costs that, in the long run, are not brought into existence as a direct result of  
148 the increment of output. The relevant increment of output shall be the level of output necessary  
149 to satisfy total current demand levels for the service in question, or, for new services, demand  
150 levels that can be demonstrably anticipated;

151           ~~[(34)]~~ **(35)** "Municipality" includes a city, village or town;

152           ~~[(35)]~~ **(36)** "Nonbasic telecommunications services" shall be all regulated  
153 telecommunications services other than basic local and exchange access telecommunications  
154 services, and shall include the services identified in paragraphs (d) and (e) of subdivision (4) of  
155 this section. Any retail telecommunications service offered for the first time after August 28,  
156 1996, shall be classified as a nonbasic telecommunications service, including any new service  
157 which does not replace an existing service;

158           ~~[(36)]~~ **(37)** "Noncompetitive telecommunications company", a telecommunications  
159 company other than a competitive telecommunications company or a transitionally competitive  
160 telecommunications company;

161           ~~[(37)]~~ **(38)** "Noncompetitive telecommunications service", a telecommunications service  
162 other than a competitive or transitionally competitive telecommunications service;

163           ~~[(38)]~~ **(39)** "Operator services", operator-assisted interexchange telecommunications  
164 service by means of either human or automated call intervention and includes, but is not limited  
165 to, billing or completion of calling card, collect, person-to-person, station-to-station or third  
166 number billed calls;

167           ~~[(39)]~~ **(40)** "Operator services contract", any agreement between a traffic aggregator and  
168 a certificated interexchange telecommunications company to provide operator services at a traffic  
169 aggregator location;

170           ~~[(40)]~~ **(41)** "Person" includes an individual, and a firm or copartnership;

171           ~~[(41)]~~ **(42)** "Private shared tenant services" includes the provision of telecommunications  
172 and information management services and equipment within a user group located in discrete  
173 private premises as authorized by the commission by a commercial-shared services provider or  
174 by a user association, through privately owned customer premises equipment and associated data  
175 processing and information management services and includes the provision of connections to  
176 the facilities of local exchange telecommunications companies and to interexchange  
177 telecommunications companies;

178           ~~[(42)]~~ **(43)** "Private telecommunications system", a telecommunications system  
179 controlled by a person or corporation for the sole and exclusive use of such person, corporation  
180 or legal or corporate affiliate thereof;

181           ~~[(43)]~~ **(44)** "Public utility" includes every pipeline corporation, gas corporation, electrical  
182 corporation, telecommunications company, water corporation, heat or refrigerating corporation,  
183 and sewer corporation, as these terms are defined in this section, and each thereof is hereby  
184 declared to be a public utility and to be subject to the jurisdiction, control and regulation of the  
185 commission and to the provisions of this chapter;

186           ~~[(44)]~~ **(45)** "Railroad" includes every railroad and railway, other than street railroad or  
187 light rail, by whatsoever power operated for public use in the conveyance of persons or property  
188 for compensation, with all bridges, ferries, tunnels, equipment, switches, spurs, tracks, stations,  
189 real estate and terminal facilities of every kind used, operated, controlled or owned by or in  
190 connection with any such railroad;

191           ~~[(45)]~~ **(46)** "Railroad corporation" includes every corporation, company, association,  
192 joint stock company or association, partnership and person, their lessees, trustees or receivers  
193 appointed by any court whatsoever, owning, holding, operating, controlling or managing any

194 railroad or railway as defined in this section, or any cars or other equipment used thereon or in  
195 connection therewith;

196 ~~[(46)]~~ **(47)** "Rate", every individual or joint rate, fare, toll, charge, reconsigning charge,  
197 switching charge, rental or other compensation of any corporation, person or public utility, or any  
198 two or more such individual or joint rates, fares, tolls, charges, reconsigning charges, switching  
199 charges, rentals or other compensations of any corporation, person or public utility or any  
200 schedule or tariff thereof;

201 ~~[(47)]~~ **(48)** "Resale of telecommunications service", the offering or providing of  
202 telecommunications service primarily through the use of services or facilities owned or provided  
203 by a separate telecommunications company, but does not include the offering or providing of  
204 private shared tenant services;

205 ~~[(48)]~~ **(49)** "Service" includes not only the use and accommodations afforded consumers  
206 or patrons, but also any product or commodity furnished by any corporation, person or public  
207 utility and the plant, equipment, apparatus, appliances, property and facilities employed by any  
208 corporation, person or public utility in performing any service or in furnishing any product or  
209 commodity and devoted to the public purposes of such corporation, person or public utility, and  
210 to the use and accommodation of consumers or patrons;

211 ~~[(49)]~~ **(50)** "Sewer corporation" includes every corporation, company, association, joint  
212 stock company or association, partnership or person, their lessees, trustees or receivers appointed  
213 by any court, owning, operating, controlling or managing any sewer system, plant or property,  
214 for the collection, carriage, treatment, or disposal of sewage anywhere within the state for gain,  
215 except that the term shall not include sewer systems with fewer than twenty-five outlets;

216 ~~[(50)]~~ **(51)** "Sewer system" includes all pipes, pumps, canals, lagoons, plants, structures  
217 and appliances, and all other real estate, fixtures and personal property, owned, operated,  
218 controlled or managed in connection with or to facilitate the collection, carriage, treatment and  
219 disposal of sewage for municipal, domestic or other beneficial or necessary purpose;

220 ~~[(51)]~~ **(52)** "Street railroad" includes every railroad by whatsoever type of power  
221 operated, and all extensions and branches thereof and supplementary facilities thereto by  
222 whatsoever type of vehicle operated, for public use in the conveyance of persons or property for  
223 compensation, mainly providing local transportation service upon the streets, highways and  
224 public places in a municipality, or in and adjacent to a municipality, and including all cars, buses  
225 and other rolling stock, equipment, switches, spurs, tracks, poles, wires, conduits, cables,  
226 subways, tunnels, stations, terminals and real estate of every kind used, operated or owned in  
227 connection therewith but this term shall not include light rail as defined in this section; and the  
228 term "street railroad" when used in this chapter shall also include all motor bus and trolley bus  
229 lines and routes and similar local transportation facilities, and the rolling stock and other

230 equipment thereof and the appurtenances thereto, when operated as a part of a street railroad or  
231 trolley bus local transportation system, or in conjunction therewith or supplementary thereto, but  
232 such term shall not include a railroad constituting or used as part of a trunk line railroad system  
233 and any street railroad as defined above which shall be converted wholly to motor bus operation  
234 shall nevertheless continue to be included within the term street railroad as used herein;

235 ~~[(52)]~~ **(53)** "Telecommunications company" includes telephone corporations as that term  
236 is used in the statutes of this state and every corporation, company, association, joint stock  
237 company or association, partnership and person, their lessees, trustees or receivers appointed by  
238 any court whatsoever, owning, operating, controlling or managing any facilities used to provide  
239 telecommunications service for hire, sale or resale within this state;

240 ~~[(53)]~~ **(54)** "Telecommunications facilities" includes lines, conduits, ducts, poles, wires,  
241 cables, crossarms, receivers, transmitters, instruments, machines, appliances and all devices, real  
242 estate, easements, apparatus, property and routes used, operated, controlled or owned by any  
243 telecommunications company to facilitate the provision of telecommunications service;

244 ~~[(54)]~~ **(55)** "Telecommunications service", the transmission of information by wire,  
245 radio, optical cable, electronic impulses, or other similar means. As used in this definition,  
246 "information" means knowledge or intelligence represented by any form of writing, signs,  
247 signals, pictures, sounds, or any other symbols. Telecommunications service does not include:

248 (a) The rent, sale, lease, or exchange for other value received of customer premises  
249 equipment except for customer premises equipment owned by a telephone company certificated  
250 or otherwise authorized to provide telephone service prior to September 28, 1987, and provided  
251 under tariff or in inventory on January 1, 1983, which must be detariffed no later than December  
252 31, 1987, and thereafter the provision of which shall not be a telecommunications service, and  
253 except for customer premises equipment owned or provided by a telecommunications company  
254 and used for answering 911 or emergency calls;

255 (b) Answering services and paging services;

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

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

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

264 (f) Cable television service;

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

266 (h) Electronic publishing services;  
267 (i) Services provided pursuant to a broadcast radio or television license issued by the  
268 Federal Communications Commission; or  
269 (j) Interconnected voice over internet protocol service;  
270 ~~[(55)]~~ **(56)** "Telephone cooperative", every corporation defined as a telecommunications  
271 company in this section, in which at least ninety percent of those persons and corporations  
272 subscribing to receive local telecommunications service from the corporation own at least ninety  
273 percent of the corporation's outstanding and issued capital stock and in which no subscriber owns  
274 more than two shares of the corporation's outstanding and issued capital stock;  
275 ~~[(56)]~~ **(57)** "Traffic aggregator", any person, firm, partnership or corporation which  
276 furnishes a telephone for use by the public and includes, but is not limited to, telephones located  
277 in rooms, offices and similar locations in hotels, motels, hospitals, colleges, universities, airports  
278 and public or customer-owned pay telephone locations, whether or not coin operated;  
279 ~~[(57)]~~ **(58)** "Transitionally competitive telecommunications company", an interexchange  
280 telecommunications company which provides any noncompetitive or transitionally competitive  
281 telecommunications service, except for an interexchange telecommunications company which  
282 provides only noncompetitive telecommunications service;  
283 ~~[(58)]~~ **(59)** "Transitionally competitive telecommunications service", a  
284 telecommunications service offered by a noncompetitive or transitionally competitive  
285 telecommunications company and classified as transitionally competitive by the commission  
286 pursuant to section 392.361 or 392.370;  
287 ~~[(59)]~~ **(60)** "Water corporation" includes every corporation, company, association, joint  
288 stock company or association, partnership and person, their lessees, trustees, or receivers  
289 appointed by any court whatsoever, owning, operating, controlling or managing any plant or  
290 property, dam or water supply, canal, or power station, distributing or selling for distribution, or  
291 selling or supplying for gain any water;  
292 ~~[(60)]~~ **(61)** "Water system" includes all reservoirs, tunnels, shafts, dams, dikes,  
293 headgates, pipes, flumes, canals, structures and appliances, and all other real estate, fixtures and  
294 personal property, owned, operated, controlled or managed in connection with or to facilitate the  
295 diversion, development, storage, supply, distribution, sale, furnishing or carriage of water for  
296 municipal, domestic or other beneficial use.

**393.362. 1. As used in this section, the following terms shall mean:**

2 **(1) "Electrical corporation", the same meaning given to the term in section 386.020,**  
3 **but shall not include an electrical corporation as described in subsection 2 of section**  
4 **393.110;**

5           (2) "Full-time equivalent personnel", the number of full-time employees of an  
6 industrial energy user that exceeds the industrial energy user's base employment less any  
7 decrease in the number of full-time employees at related facilities below the related facility  
8 base employment. No job that was created prior to the date of the approval of the special  
9 rate under this section shall be counted for purposes of job creation projections.

10           (3) "Industrial energy user", the same meaning given to the term in section 386.020.

11           2. Notwithstanding section 393.130 or any other provision of law to the contrary,  
12 the public service commission shall have the authority to approve a special rate that is  
13 reasonably related to the cost of service and is not unduly or unreasonably preferential for  
14 an industrial energy user if the commission:

15           (1) Determines the special rate is in the interest of the state of Missouri when  
16 considering the collective interests of the customers of the electrical corporation serving the  
17 industrial energy user and the interests of the citizens of the state generally in promoting  
18 economic development, improving the tax base, providing employment opportunities in the  
19 state, mitigating localized unemployment, and promoting such other benefits to the state  
20 as the commission may determine are created by approval of the special rate;

21           (2) In each general rate proceeding of the electrical corporation serving the  
22 industrial energy user, allocates the reduced revenues from the special rate as compared  
23 to the revenues that would have been generated at the rate the industrial energy user would  
24 have paid without the special rate to the electrical corporation's other customers through  
25 a uniform percentage adjustment to all components of the base rates of all customer  
26 classes; and

27           (3) Approves a tracking mechanism meeting the requirements of subsection 3 of  
28 this section.

29           3. Any commission order approving a special rate authorized by this section to  
30 provide service to an industrial energy user in the manner specified in subsection 4 of this  
31 section shall establish a tracking mechanism to track changes in the net margin  
32 experienced by the electrical corporation serving the industrial energy user with the  
33 tracker to apply retroactively to the date the electrical corporation's base rates were last  
34 set in its last general rate proceeding concluded prior to the effective date of this section.  
35 The commission shall ensure that the changes in net margin experienced by the electrical  
36 corporation are calculated in such a manner that the electrical corporation's net income  
37 is neither increased nor decreased. The changes in net margin shall be deferred to a  
38 regulatory liability or regulatory asset, as applicable, with the balance of such regulatory  
39 asset or liability to be included in the revenue requirement of the electrical corporation in  
40 each of its general rate proceedings through an amortization of the balance over a

41 reasonable period until fully returned to or collected from the electrical corporation's  
42 customers.

43 **4. An electrical corporation is authorized to provide electric service to an industrial**  
44 **energy user at a special rate authorized by this section in one of two ways:**

45 **(1) Under a rate schedule reflecting the special rate if the industrial energy user is**  
46 **located within the electrical corporation's certificated service territory; or**

47 **(2) Notwithstanding section 393.170, under a contract reflecting the special rate**  
48 **approved by the commission under the terms and conditions of this section.**

49

50 **In any case where the electric service is provided under a contract referenced in**  
51 **subdivision (2) of this subsection, the industrial energy user shall be a**  
52 **commission-regulated retail electric customer of the electrical corporation and the rates,**  
53 **charges, and revenues under the contract shall, for ratemaking purposes, be treated by the**  
54 **commission as if the rates, charges, and revenues arise under the electrical corporation's**  
55 **tariff.**

56 **5. To receive a special rate, the industrial energy user shall file a written**  
57 **application with the commission specifying the requested special rate and any terms or**  
58 **conditions proposed by the industrial energy user respecting the requested special rate and**  
59 **provide information regarding how the requested special rate meets the criteria specified**  
60 **in subdivision (1) of subsection 2 of this section. Such application shall include a**  
61 **memorandum of understanding between the industrial energy user and electrical**  
62 **corporation detailing the amount of full-time jobs and associated wages that would be**  
63 **created, and capital expenditures incurred, as a result of the special rate. Such**  
64 **memorandum shall at a minimum contain job creation projections of at least four hundred**  
65 **fifty full-time equivalent personnel and capital expenditure projections of at least \$35**  
66 **million. Such memorandum shall be a public record as defined under chapter 610.**

67 **6. A special rate provided for under this section shall terminate three years after**  
68 **approval, thereupon the industrial energy user may file again for the special rate with the**  
69 **commission for additional three-year terms. The commission may impose such conditions**  
70 **and modifications on the special rate throughout the specified term as the commission**  
71 **deems appropriate so long as the commission otherwise complies with the provisions of this**  
72 **section.**

73 **7. Within ninety days of the filing of an application under subsection 5 of this**  
74 **section, the commission shall approve or deny the application. If the application is**  
75 **approved, the commission shall issue an order directing the electrical corporation to file**  
76 **tariffs containing the rates, terms, and conditions set forth in the application and**

77 **authorizing the electrical corporation to create a regulatory asset for the difference**  
78 **between the revenues that would have been collected under the previously applicable rate**  
79 **and the newly applicable industrial energy user rate. Such order shall be effective thirty**  
80 **days after its issuance.**

81 **8. An industrial energy user shall only be eligible for the special rate established**  
82 **under this section if it maintains its job creation and capital expenditure projections**  
83 **established in the memorandum of understanding under subsection 5 of this section, and**  
84 **if the associated wages meet or exceed the county-average wage. If an industrial energy**  
85 **user does not meet the job creation or capital expenditure projections in the memorandum**  
86 **of understanding, pays associated wages below the county-average wage, or otherwise**  
87 **violates the memorandum of understanding, then it shall become ineligible for service**  
88 **under the special rate, shall be ineligible for any state funding or tax credits issued by the**  
89 **state for two years, and shall be served at a rate incorporating the rate charges applicable**  
90 **at the time the special rate became effective and the reduced revenues lost under**  
91 **subdivision (2) of subsection 2 of this section. The electrical corporation's other customers**  
92 **shall thereupon be credited for any excess rates that were charged during the term of the**  
93 **industrial energy user's special rate.**

94 **9. The commission shall have the authority to promulgate rules and regulations for**  
95 **the implementation of this section. Any rule or portion of a rule, as that term is defined**  
96 **in section 536.010, that is created under the authority delegated in this section shall become**  
97 **effective only if it complies with and is subject to all of the provisions of chapter 536 and,**  
98 **if applicable, section 536.028. This section and chapter 536 are nonseverable, and if any**  
99 **of the powers vested with the general assembly pursuant to chapter 536 to review, to delay**  
100 **the effective date, or to disapprove and annul a rule are subsequently held**  
101 **unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted**  
102 **after the effective date of this section shall be invalid and void.**

Section B. Because economic development is vital for the continued success of the  
2 Missouri economy, this act is deemed necessary for the immediate preservation of the public  
3 health, welfare, peace, and safety, and is hereby declared to be an emergency act within the  
4 meaning of the constitution, and this act shall be in full force and effect upon its passage and  
5 approval.

✓