

SECOND REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]
CONFERENCE COMMITTEE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 1402
91ST GENERAL ASSEMBLY

3417L.07T

2002

AN ACT

To repeal sections 386.025, 392.410, 393.295, 393.700, 393.705, 393.715, 393.725, 393.740 and 393.765, RSMo, and to enact in lieu thereof twelve new sections relating to utility projects, with an emergency clause for a certain section.

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

Section A. Sections 386.025, 392.410, 393.295, 393.700, 393.705, 393.715, 393.725, 2 393.740 and 393.765, RSMo, are repealed and twelve new sections enacted in lieu thereof, to 3 be known as sections 71.970, 182.825, 182.827, 393.310, 393.700, 393.705, 393.715, 393.725, 4 393.740, 386.887, 392.410 and 1, to read as follows:

71.970. 1. Municipalities may own and operate cable television facilities on a 2 nondiscriminatory, competitively-neutral basis, and at a price which covers costs, including 3 imputed costs that the political subdivision would incur if it were a for-profit business. No 4 municipality may own or operate cable television facilities and services unless approved 5 by a vote of the people. This section shall apply only to municipalities that acquire or 6 construct cable television facilities and services after August 28, 2002.

2. The public service commission shall annually study the economic impact of the 8 provisions of this section and prepare and submit a report to the general assembly by 9 December thirty-first of each year.

3. The provisions of this section shall terminate on August 28, 2007.

182.825. As used in sections 182.825 and 182.827, the following terms mean:

- 2 (1) "Pornographic for minors", as that term is defined in section 573.010, RSMo;**
3 (2) "Public access computer", a computer that is:

EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

- 4 (a) Located in an elementary or secondary public school or public library;
- 5 (b) Frequently or regularly used directly by a minor; and
- 6 (c) Connected to any computer communication system.

182.827. 1. A public school that provides a public access computer shall do one or
2 both of the following:

3 (1) Equip the computer with software that will limit minors' ability to gain access
4 to material that is pornographic for minors or purchase Internet connectivity from an
5 Internet service provider that provides filter services to limit access to material that is
6 pornographic for minors;

7 (2) Develop and implement by January 1, 2003, a policy that is consistent with
8 community standards and establishes measures to restrict minors from gaining computer
9 access to material that is pornographic for minors.

10 2. The department of elementary and secondary education shall establish rules and
11 regulations for the enforcement of subsection 1 of this section. Any rule or portion of a
12 rule, as that term is defined in section 536.010, RSMo, that is created under the authority
13 delegated in this section shall become effective only if it complies with and is subject to all
14 of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This
15 section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the
16 general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or
17 to disapprove and annul a rule are subsequently held unconstitutional, then the grant of
18 rulemaking authority and any rule proposed or adopted after August 28, 2002, shall be
19 invalid and void.

20 3. A public library that provides a public access computer shall do one or both of
21 the following:

22 (1) Equip the computer with software that will limit minors' ability to gain access
23 to material that is pornographic for minors or purchase Internet connectivity from an
24 Internet service provider that provides filter services to limit access to material that is
25 pornographic for minors;

26 (2) Develop and implement by January 1, 2003, a policy that is consistent with
27 community standards and establishes measures to restrict minors from gaining computer
28 access to material that is pornographic for minors.

29 4. The secretary of state shall establish rules and regulations for the enforcement
30 of subsection 3 of this section. Any rule or portion of a rule, as that term is defined in
31 section 536.010, RSMo, that is created under the authority delegated in this section shall
32 become effective only if it complies with and is subject to all of the provisions of chapter
33 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536,

34 RSMo, are nonseverable and if any of the powers vested with the general assembly
35 pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and
36 annul a rule are subsequently held unconstitutional, then the grant of rulemaking
37 authority and any rule proposed or adopted after August 28, 2002, shall be invalid and
38 void.

39 5. Any public school board member, officer or employee, including library
40 personnel, who willfully neglects or refuses to perform a duty imposed by this section shall
41 be subject to the penalties imposed pursuant to section 162.091, RSMo.

42 6. A public school or public school board member, officer or employee, including
43 library personnel; public library or public library board member, officer, employee or
44 trustee that complies with subsection 1 or 3 of this section or an Internet service provider
45 providing Internet connectivity to such public school or library in order to comply with
46 this section shall not be criminally liable or liable for any damages that might arise from
47 a minor gaining access to material that is pornographic for minors through the use of a
48 public access computer that is owned or controlled by the public school or public library.

2 386.887. 1. This section shall be known and may be cited as the "Consumer Clean
2 Energy Act".

3 2. As used in this section, the following terms mean:

4 (1) "Commission", the public service commission of the state of Missouri;

5 (2) "Customer-generator", a consumer of electric energy who purchases electric
6 energy from a retail electric energy supplier and is the owner of a qualified net metering
7 unit;

8 (3) "Local distribution system", facilities for the distribution of electric energy to
9 the ultimate consumer thereof;

10 (4) "Net energy metering", a measurement of the difference between the electric
11 energy supplied to a customer-generator by a retail electric supplier and the electric energy
12 generated by a customer-generator that is delivered to a local distribution system at the
13 same point of interconnection;

14 (5) "Qualified net metering unit", an electric generation unit which:

15 (a) Is owned by a customer-generator;

16 (b) Is a hydrogen fuel cell or is powered by sun, wind or biomass;

17 (c) Has an electrical generating system with a capacity of not more than one
18 hundred kilowatts;

19 (d) Is located on the premises that are owned, operated, leased or otherwise
20 controlled by the customer-generator;

21 (e) Is interconnected and operates in parallel and in synchronization with a retail

22 electric supplier; and

23 (f) Is intended primarily to offset part or all of the customer-generator's own
24 electrical requirements;

25 (6) "Retail electric supplier" or "supplier", any person that sells electric energy to
26 the ultimate consumer thereof;

27 (7) "Value of electric energy", the total resulting from the application of the
28 appropriate rates, which may be time of use rates at the option of the supplier, to the
29 quantity of electric energy produced from qualified net metering units or to the quantity
30 of electric energy sold to customer-generators.

31 3. By August 28, 2003, each retail electric supplier shall adopt rates, charges,
32 conditions and contract terms for the purchase from and the sale of electric energy to
33 customer-generators. The commission, in consultation with the department and retail
34 electric suppliers, shall develop a simple contract for such transactions and make it
35 available to eligible customer-generators and retail electric suppliers. Upon agreement of
36 the wholesale generator supplying electric energy to the retail electric supplier, at the
37 option of the retail electric supplier, the purchase from the customer-generator may be by
38 the wholesale generator. Any time of use or other rates charged for electric energy sold to
39 customer-generators shall be the same as those made available to any other customers with
40 the same net electric energy usage pattern including minimum bills and service availability
41 charges. Rates for electric energy generated by the customer-generator from a qualified
42 net generating unit and sold to the retail electric supplier or its wholesale generator shall
43 be the avoided cost (time of use or non-time of use) of the generation used by the retail
44 electric supplier to serve its other customers. Whenever a customer-generator with a
45 qualified net generating unit uses any energy generation method entitled to eligibility
46 under a minimum renewable energy generation requirement, the total amount of energy
47 generated by that method shall be treated as generated by the generator providing electric
48 energy to the retail electric supplier for purposes of such requirement. The wholesale
49 generator, at the option of the retail electric supplier, shall receive credit for emissions
50 avoided by the wholesale generator because of electric energy purchased by the wholesale
51 generator or the retail electric supplier from a qualified net metering unit. If the supplier
52 is required to file tariffs with the commission, the commission shall review the
53 reasonableness of the charges provided in such tariffs.

54 4. Each retail electric supplier shall calculate the net energy measurement for a
55 customer-generator in the following manner:

56 (1) The retail electric supplier shall individually measure both the electric energy
57 produced and the electric energy consumed by the customer-generator during each billing

58 period using an electric metering capable of such function, either by a single meter capable
59 of registering the flow of electricity in two directions or by using multiple meters;

60 (2) If the value of the electric energy supplied by the retail electric supplier exceeds
61 the value of the electric energy delivered by the customer-generator to the retail electric
62 supplier during a billing period, then the customer-generator shall be billed for the net
63 value of the electric energy supplied by the retail electric supplier in accordance with the
64 rates, terms and conditions established by the retail electric supplier for
65 customer-generators; and

66 (3) If the value of the electric energy generated by the customer-generator exceeds
67 the value of the electric energy supplied by the retail electric supplier, then the
68 customer-generator:

69 (a) Shall be billed for the appropriate customer charges for that billing period; and

70 (b) Shall be credited for the excess value of the electric energy generated and
71 supplied to the retail electric supplier during the billing period, with this credit appearing
72 on the bill for the following billing period.

73 5. A retail electric supplier shall not be required to provide net metering service
74 with respect to additional customer-generators after the date during any calendar year on
75 which the total generating capacity of all customer-generators with qualified net metering
76 units served by that retail electric supplier is equal to or in excess of the lesser of ten
77 thousand kilowatts or one-tenth of one percent of the capacity necessary to meet the
78 company's aggregate customer peak demand for the preceding calendar year.

79 6. Each retail electric supplier shall maintain and make available to the public
80 records of the total generating capacity of customer-generators of the supplier that are
81 using net metering, the type of generating systems and energy source used by the electric
82 generating systems which customer-generators use. Each such retail electric supplier shall
83 notify the commission when the total generating capacity of such customer-generators is
84 equal to or in excess of the lesser of ten thousand kilowatts or one-tenth of one percent of
85 the capacity necessary to meet the company's aggregate customer peak demand for the
86 preceding calendar year.

87 7. Each qualified net metering unit used by a customer-generator shall meet all
88 applicable safety, performance, synchronization, interconnection and reliability standards
89 established by the commission, the National Electrical Safety Code, National Electrical
90 Code, the Institute of Electrical, Electronics Engineers, and Underwriters Laboratories.
91 Each qualified net metering unit used by a customer-generator shall also meet all
92 reasonable standards and requirements established by the retail electric supplier to
93 enhance employee, consumer and public safety and the reliability of electric service to the

customer-generator and other consumers receiving electric service from the retail electric supplier. Each qualified net metering unit used by a customer-generator shall also comply with all applicable local building, electrical and safety codes. The customer-generator shall obtain liability insurance coverage in amounts and coverage as set by the commission by rule applicable to all qualified net metering units.

8. The cost of meeting the standards of subsection 7 of this section and any cost to install additional controls, to install additional metering, to perform or pay for additional tests or analysis of the effect of the operation of the qualified net metering unit on the local distribution system shall be paid by the customer-generator.

9. Applications by a customer-generator for interconnection to the distribution system shall include a copy of the plans and specifications for the qualified net metering unit for review and acceptance by the retail electric supplier. Prior to connection of the qualified net metering unit to the distribution system, the customer-generator will furnish the retail electric supplier a certification from a qualified professional electrician or engineer that the installation meets the requirements of subsection 7 of this section. Such applications shall be reviewed and responded to by the retail electric supplier within ninety days. If the application for interconnection is approved by the retail electric supplier, the retail electric supplier shall complete the interconnection within fifteen days if electric service already exists to the premises, unless a later date is mutually agreeable to both the customer-generator and the retail electric supplier.

10. The sale of qualified net metering units shall be subject to the provisions of sections 407.700 to 407.720, RSMo. The attorney general shall have the authority to promulgate in accordance with the provisions of chapter 536, RSMo, rules regarding mandatory disclosures of information by sellers of qualified net metering units. Such rules shall as a minimum require disclosure of the standards of subsection 7 of this section and potential liability of the owner or operator of a qualified net metering unit to third persons for personal injury or property damage as a result of negligent operation of a qualified net metering unit. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2002, shall be invalid and void.

392.410. 1. A telecommunications company not possessing a certificate of public

2 convenience and necessity from the commission at the time this section goes into effect shall
3 have not more than ninety days in which to apply for a certificate of service authority from the
4 commission pursuant to this chapter unless a company holds a state charter issued in or prior to
5 the year 1913 which charter authorizes a company to engage in the telephone business. No
6 telecommunications company not exempt from this subsection shall transact any business in this
7 state until it shall have obtained a certificate of service authority from the commission pursuant
8 to the provisions of this chapter, except that any telecommunications company which is
9 providing telecommunications service on September 28, 1987, and which has not been granted
10 or denied a certificate of public convenience and necessity prior to September 28, 1987, may
11 continue to provide that service exempt from all other requirements of this chapter until a
12 certificate of service authority is granted or denied by the commission so long as the
13 telecommunications company applies for a certificate of service authority within ninety days
14 from September 28, 1987.

15 2. No telecommunications company offering or providing, or seeking to offer or provide,
16 any interexchange telecommunications service shall do so until it has applied for and received
17 a certificate of interexchange service authority pursuant to the provisions of subsection 1 of this
18 section. No telecommunications company offering or providing, or seeking to offer or provide,
19 any local exchange telecommunications service shall do so until it has applied for and received
20 a certificate of local exchange service authority pursuant to the provisions of section 392.420.

21 3. No certificate of service authority issued by the commission shall be construed as
22 granting a monopoly or exclusive privilege, immunity or franchise. The issuance of a certificate
23 of service authority to any telecommunications company shall not preclude the commission from
24 issuing additional certificates of service authority to another telecommunications company
25 providing the same or equivalent service or serving the same geographical area or customers as
26 any previously certified company, except to the extent otherwise provided by section 392.450.

27 4. Any certificate of public convenience and necessity granted by the commission to a
28 telecommunications company prior to September 28, 1987, shall remain in full force and effect
29 unless modified by the commission, and such companies need not apply for a certificate of
30 service authority in order to continue offering or providing service to the extent authorized in
31 such certificate of public convenience and necessity. Any such carrier, however, prior to
32 substantially altering the nature or scope of services provided under a certificate of public
33 convenience and necessity, or adding or expanding services beyond the authority contained in
34 such certificate, shall apply for a certificate of service authority for such alterations or additions
35 pursuant to the provisions of this section.

36 5. The commission may review and modify the terms of any certificate of public
37 convenience and necessity issued to a telecommunications company prior to September 28, 1987,

38 in order to ensure its conformity with the requirements and policies of this chapter. Any
39 certificate of service authority may be altered or modified by the commission after notice and
40 hearing, upon its own motion or upon application of the person or company affected. Unless
41 exercised within a period of one year from the issuance thereof, authority conferred by a
42 certificate of service authority or a certificate of public convenience and necessity shall be null
43 and void.

44 6. The commission may issue a temporary certificate which shall remain in force not to
45 exceed one year to assure maintenance of adequate service or to serve particular customers,
46 without notice and hearing, pending the determination of an application for a certificate.

47 7. No political subdivision of this state shall provide or offer for sale, either to the public
48 or to a telecommunications provider, a telecommunications service or telecommunications
49 facility used to provide a telecommunications service for which a certificate of service authority
50 is required pursuant to this section. Nothing in this subsection shall be construed to restrict a
51 political subdivision from allowing the nondiscriminatory use of its rights-of-way including its
52 poles, conduits, ducts and similar support structures by telecommunications providers or from
53 providing to telecommunications providers, within the geographic area in which it lawfully
54 operates as a municipal utility, telecommunications services or telecommunications
55 facilities on a nondiscriminatory, competitively-neutral basis, and at a price which covers
56 cost, including imputed costs that the political subdivision would incur if it were a for-
57 profit business. Nothing in this subsection shall restrict a political subdivision from
58 providing telecommunications services or facilities:

- 59 (1) For its own use;
60 (2) For 911, E-911 or other emergency services;
61 (3) For medical or educational purposes;
62 (4) To students by an educational institution; or
63 (5) Internet-type services.

64 The provisions of this subsection shall expire on August 28, [2002] 2007.

65 8. The public service commission shall annually study the economic impact of the
66 provisions of this section and prepare and submit a report to the general assembly by
67 December thirty-first of each year.

393.310. 1. This section shall only apply to gas corporations as defined in section
2 386.020, RSMo. This section shall not affect any existing laws and shall only apply to the
3 program established pursuant to this section.

4 2. As used in this section, the following terms mean:

- 5 (1) "Aggregate", the combination of natural gas supply and transportation
6 services, including storage, requirements of eligible school entities served through a

7 **Missouri gas corporation's delivery system;**

8 **(2) "Commission", the Missouri public service commission; and**

9 **(3) "Eligible school entity", shall include any seven-director, urban or metropolitan**
10 **school district as defined pursuant to section 160.011, RSMo, and shall also include, one**
11 **year after the effective date of this section and thereafter, any school for elementary or**
12 **secondary education situated in this state, whether a charter, private, or parochial school**
13 **or school district.**

14 **3. Each Missouri gas corporation shall file with the commission, by August 1, 2002,**
15 **a set of experimental tariffs applicable the first year to public school districts and**
16 **applicable to all school districts, whether charter, private, public, or parochial, thereafter.**

17 **4. The tariffs required pursuant to subsection 3 of this section shall, at a minimum:**

18 **(1) Provide for the aggregate purchasing of natural gas supplies and pipeline**
19 **transportation services on behalf of eligible school entities in accordance with aggregate**
20 **purchasing contracts negotiated by and through a not-for-profit school association;**

21 **(2) Provide for the resale of such natural gas supplies, including related**
22 **transportation service costs, to the eligible school entities at the gas corporation's cost of**
23 **purchasing of such gas supplies and transportation, plus all applicable distribution costs,**
24 **plus an aggregation and balancing fee to be determined by the commission, not to exceed**
25 **four-tenths of one cent per therm delivered during the first year; and**

26 **(3) Not require telemetry or special metering, except for individual school meters**
27 **over one hundred thousand therms annually.**

28 **5. The commission may suspend the tariff as required pursuant to subsection 3 of**
29 **this section for a period ending no later than November 1, 2002, and shall approve such**
30 **tariffs upon finding that implementation of the aggregation program set forth in such**
31 **tariffs will not have any negative financial impact on the gas corporation, its other**
32 **customers or local taxing authorities, and that the aggregation charge is sufficient to**
33 **generate revenue at least equal to all incremental costs caused by the experimental**
34 **aggregation program.**

35 **6. The commission may adopt by order such other procedures not inconsistent with**
36 **this section which the commission determines are reasonable or necessary to administer**
37 **the experimental program.**

38 **7. This section shall terminate June 30, 2005.**

393.700. Sections 393.700 to 393.770 [and section 386.025, RSMo,] shall be known as
2 the "Joint Municipal Utility Commission Act".

393.705. As used in sections 393.700 to 393.770 [and sections 386.025, RSMo, and
2 393.295], the following terms shall, unless the context clearly indicates otherwise, have the

3 following meanings:

4 (1) "Bond" or "bonds", any bonds, interim certificates, notes, debentures or other
5 obligations of a commission issued pursuant to sections 393.700 to 393.770 [and sections
6 386.025, RSMo, and 393.295];

7 (2) "Commission", any joint municipal utility commission established by a joint contract
8 [under] **pursuant to** sections 393.700 to 393.770 [and sections 386.025, RSMo, and 393.295];

9 (3) "Contracting municipality", each municipality which is a party to a joint contract
10 establishing a commission [under] **pursuant to** sections 393.700 to 393.770 [and sections
11 386.025, RSMo, and 393.295], a water supply district formed [under] **pursuant to** the provisions
12 of chapter 247, RSMo, or a sewer district formed pursuant to the provisions of chapter 204,
13 RSMo, or chapter 249, RSMo;

14 (4) "Joint contract", the contract entered into among or by and between two or more of
15 the following contracting entities for the purpose of establishing a commission:

16 (a) Municipalities;

17 (b) Public water supply districts;

18 (c) Sewer districts;

19 (d) Nonprofit water companies; or

20 (e) Nonprofit sewer companies;

21 (5) "Person", a natural person, cooperative or private corporation, association, firm,
22 partnership, or business trust of any nature whatsoever, organized and existing [under] **pursuant**
23 **to** the laws of any state or of the United States and any municipality or other municipal
24 corporation, governmental unit, or public corporation created under the laws of this state or the
25 United States, and any person, board, or other body declared by the laws of any state or the
26 United States to be a department, agency or instrumentality thereof;

27 (6) "Project", the purchasing, construction, extending or improving of any
28 revenue-producing water, sewage, gas or electric light works, heating or power plants, including
29 all real and personal property of any nature whatsoever to be used in connection therewith,
30 together with all parts thereof and appurtenances thereto, used or useful in the generation,
31 production, transmission, distribution excluding retail sales, purchase, sale, exchange, transport
32 and treatment of sewage or interchange of water, sewage, electric power and energy, or any
33 interest therein or right to capacity thereof and the acquisition of fuel of any kind for any such
34 purposes.

393.715. 1. The general powers of a commission to the extent provided in section
2 393.710 [herein and subject to the provisions of section 393.765 herein] shall include the power
3 to:

4 (1) Plan, develop, acquire, construct, reconstruct, operate, manage, dispose of, participate

5 in, maintain, repair, extend or improve one or more projects, either exclusively or jointly or by
6 participation with electric cooperative associations, municipally owned or public utilities or
7 acquire any interest in or any rights to capacity of a project, within or outside the state, and act
8 as an agent, or designate one or more other persons participating in a project to act as its agent,
9 in connection with the planning, acquisition, construction, operation, maintenance, repair,
10 extension or improvement of such project;

11 (2) Acquire, sell, distribute and process fuels necessary to the production of electric
12 power and energy; provided, however, the commission shall not have the power or authority to
13 erect, own, use or maintain a transmission line which is parallel or generally parallel to another
14 transmission line in place within a distance of two miles, which serves the same general area
15 sought to be served by the commission unless the public service commission finds that it is not
16 feasible to utilize the transmission line which is in place;

17 (3) Acquire by purchase or lease, construct, install, and operate reservoirs, pipelines,
18 wells, check dams, pumping stations, water purification plants, and other facilities for the
19 production, wholesale distribution, and utilization of water and to own and hold such real and
20 personal property as may be necessary to carry out the purposes of its organization; provided,
21 however, that a commission shall not sell or distribute water, at retail or wholesale, within the
22 certificated area of a water corporation which is subject to the jurisdiction of the public service
23 commission unless the sale or distribution of water is within the boundaries of a public water
24 supply district or municipality which is a contracting municipality in the commission and the
25 commission has obtained the approval of the public service commission prior to commencing
26 such said sale or distribution of water;

27 (4) Acquire by purchase or lease, construct, install, and operate lagoons, pipelines, wells,
28 pumping stations, sewage treatment plants and other facilities for the treatment and
29 transportation of sewage and to own and hold such real and personal property as may be
30 necessary to carry out the purposes of its organization;

31 (5) Enter into operating, franchises, exchange, interchange, pooling, wheeling,
32 transmission and other similar agreements with any person;

33 (6) Make and execute contracts and other instruments necessary or convenient to the
34 exercise of the powers of the commission;

35 (7) Employ agents and employees;

36 (8) Contract with any person, within or outside the state, for the construction of any
37 project or for any interest therein or any right to capacity thereof, without advertising for bids,
38 preparing final plans and specifications in advance of construction, or securing performance and
39 payment of bonds, except to the extent and on such terms as its board of directors shall
40 determine. Any contract entered into pursuant to this subdivision shall contain a provision that

41 the requirements of sections 290.210 to 290.340, RSMo, shall apply;

42 (9) Purchase, sell, exchange, transmit, treat, dispose or distribute water, sewage, gas, heat
43 or electric power and energy, or any by-product resulting therefrom, within and outside the state,
44 in such amounts as it shall determine to be necessary and appropriate to make the most effective
45 use of its powers and to meet its responsibilities, and to enter into agreements with any person
46 with respect to such purchase, sale, exchange, treatment, disposal or transmission, on such terms
47 and for such period of time as its board of directors shall determine.

48

49 A commission may not sell or distribute water, gas, heat or power and energy, or sell sewage
50 service at retail to ultimate customers outside the boundary limits of its contracting
51 municipalities except pursuant to subsection 2 or 3 of this section;

52 (10) Acquire, own, hold, use, lease, as lessor or lessee, sell or otherwise dispose of,
53 mortgage, pledge, or grant a security interest in any real or personal property, commodity or
54 service or interest therein;

55 (11) Exercise the powers of eminent domain for public use as provided in chapter 523,
56 RSMo, except that the power of eminent domain shall not be exercised against any electric
57 cooperative association, municipally owned or public utility;

58 (12) Incur debts, liabilities or obligations including the issuance of bonds pursuant to the
59 authority granted in section 27 of article VI of the Missouri Constitution;

60 (13) Sue and be sued in its own name;

61 (14) Have and use a corporate seal;

62 (15) Fix, maintain and revise fees, rates, rents and charges for functions, services,
63 facilities or commodities provided by the commission;

64 (16) Make, and from time to time, amend and repeal, bylaws, rules and regulations not
65 inconsistent with this section to carry into effect the powers and purposes of the commission;

66 (17) Notwithstanding the provisions of any other law, invest any funds held in reserve
67 or sinking funds, or any funds not required for immediate disbursement, including the proceeds
68 from the sale of any bonds, in such obligations, securities and other investments as the
69 commission deems proper;

70 (18) Join organizations, membership in which is deemed by the board of directors to be
71 beneficial to accomplishment of the commission's purposes;

72 (19) Exercise any other powers which are deemed necessary and convenient by the
73 commission to effectuate the purposes of the commission; and

74 (20) Do and perform any acts and things authorized by this section under, through or by
75 means of an agent or by contracts with any person.

76 2. When a municipality purchases a privately owned water utility and a commission is

77 created pursuant to sections 393.700 to 393.770, the commission may continue to serve those
78 locations previously receiving water from the private utility even though the location receives
79 such service outside the geographical area of the municipalities forming the commission. New
80 water service may be provided in such areas if the site to receive such service is located within
81 one-fourth of a mile from a site serviced by the privately owned water utility.

82 3. When a commission created by any of the contracting entities listed in subdivision (4)
83 of section 393.705 becomes a successor to any nonprofit water corporation, nonprofit sewer
84 corporation or other nonprofit agency or entity organized to provide water or sewer service, the
85 commission may continue to serve, as well as provide new service to, those locations and areas
86 previously receiving water or sewer service from such nonprofit entity, regardless of whether or
87 not such location receives such service outside the geographical service area of the contracting
88 entities forming such commission; provided that such locations and areas previously receiving
89 water and sewer service from such nonprofit entity are not located within:

90 (1) Any county of the first classification with a population of more than six hundred
91 thousand and less than nine hundred thousand;

92 (2) The boundaries of any sewer district established pursuant to article VI, section 30(a)
93 of the Missouri Constitution; or

94 (3) The certificated area of a water or sewer corporation that is subject to the jurisdiction
95 of the public service commission.

393.725. 1. Bonds issued pursuant to sections 393.700 to 393.770 by a commission shall
2 be payable, as to the principal and interest, solely from the net revenues derived by the
3 commission from the operation of the commission's project or projects, after providing for the
4 costs of operation and maintenance of the commission's project or projects, or from any other
5 funds made available to the commission from sources other than from proceeds of taxation.

6 2. Each bond issued pursuant to the provisions of sections 393.700 to 393.770 shall
7 contain a statement that such bond is not an indebtedness of the state, or of any political
8 subdivision thereof, other than the joint municipal utility commission, or of the contracting
9 municipalities, the contracting public water supply districts or the contracting sewer districts, but
10 shall be special obligations of the commission only and that neither the faith and credit nor the
11 taxing power of the state or of any political subdivision thereof, or of the contracting
12 municipalities, contracting public water supply districts or contracting sewer districts is pledged
13 to the payment of or the interest on such bonds. The bonds shall not be deemed to be an
14 indebtedness within the meaning of any constitutional or statutory limitation upon the incurring
15 of indebtedness. Neither the members of the board of directors of a commission nor any person
16 executing the bonds shall be liable personally on the bonds by reason of the lawful issuance
17 thereof.

18 3. A commission, subject to the provisions of section 393.760, may from time to time
19 issue its bonds in such principal amounts as it deems necessary to provide sufficient funds to
20 purchase, construct, extend or improve a project, including the establishment or increase of
21 reserves, interest accrued during construction of such project and for a period not exceeding one
22 year after the completion of construction of such project, and the payment of all other costs or
23 expenses of the commission incident to and necessary or convenient to carry out its corporate
24 purposes and powers.

25 4. Bonds of a commission shall be authorized by resolution of the board of directors and
26 may be issued under such resolution or under a trust indenture or other security instrument, as
27 authorized by the resolution, in one or more series and shall bear such date or dates, mature at
28 such time or times, bear interest at such rate or rates, be in such denomination or denominations,
29 be in such form, either coupon, registered or both, carry such conversion or registration
30 privileges, have such rank or priority, be executed in such manner, be payable in such medium
31 of payment, at such place or places within or without the state, and be subject to such terms of
32 redemption, with or without premium, as such resolution, trust indenture or other security
33 instrument may provide, and without limitation by the provisions of any other law limiting
34 amounts, maturities or interest rates.

35 5. The bonds shall be sold at public sale [and in the event of a rejection of all bids by the
36 commission, the bonds may be sold] **or** at private sale as the commission may provide and at
37 such price or prices as the commission shall determine [or for a joint municipal utility
38 commission within a fifteen-county area being served with water from a lake constructed by the
39 U.S. Army Corps of Engineers and located north of the Missouri River, if the commission
40 determines it is in the best interest of the commission, at private sale. The reason or reasons why
41 private sale is in the best interest of the people served shall be set forth in the order or resolution
42 authorizing the private sale]. The decision of the commission shall be conclusive.

43 6. The bonds may be signed by manual or facsimile signatures as determined by
44 resolution of the board. In case any of the officers whose signatures appear on any bonds or
45 coupons shall cease to be such officers before the delivery of such obligations, such signatures
46 shall, nevertheless, be valid and sufficient for all purposes, the same as if the officers had
47 remained in office until such delivery.

48 7. Pending preparation of definitive bonds, a commission may issue temporary bonds
49 which shall be exchanged for the definitive bonds when such bonds shall have been executed and
50 are available for delivery.

51 8. All bonds issued under the provisions of sections 393.700 to 393.770 shall be
52 negotiable instruments [under] **pursuant to** the provisions of the uniform commercial code of
53 the state.

393.740. 1. All bonds issued pursuant to sections 393.700 to 393.770 and all income or interest thereon shall be exempt from all state taxes, except estate and transfer taxes.

2. All property, real and tangible personal, **except for properties acquired exclusively for water supply districts**, acquired by the bonds issued pursuant to sections 393.700 and 393.770 or otherwise acquired by a commission shall be subject to taxation for state, county, and municipal and other local purposes **only** to the same extent as [bridge and public utility companies under the provisions of sections 153.030, RSMo, and 138.420, RSMo, except for those properties acquired exclusively for water supply districts] **if such property was owned directly by each participating municipality in proportion to the percentage of each municipality's interest or participation in the facility or property.**

Section 1. Notwithstanding any provisions of law to the contrary, any utility unit, as defined in Title IV of the federal Clean Air Act, 42 U.S.C. Section 7851a, that uses coal-fired cyclone boilers which also burn tire derived fuel shall limit emissions of oxides of nitrogen to a rate no greater than eighty percent of the emission limit for cyclone-fired boilers in Title IV of the federal Clean Air Act and implementing regulations in 40 CFR Part 76, as amended. The provisions of this section shall expire on April 30, 2004, or upon the effective date of a revision to 10 CSR 10-6.350, whichever later occurs. The director of the department of natural resources shall notify the revisor of statutes of the effective date of a revision to 10 CSR 10-6.350.

[386.025. Any joint municipal utility commission established by contract for the purpose of owning, operating, controlling or managing all or part of any gas or electric light works, heating or power plants, or gas or electrical production, distribution or transmission facilities shall be considered a gas corporation or electrical corporation, as the case may be, as those terms are defined in this chapter.]

[393.295. All provisions of this chapter and chapter 386, RSMo, concerning court proceedings and the jurisdiction, supervision, powers and duties of the public service commission with reference to gas corporations and electrical corporations, including, but not limiting by enumeration those provisions concerning supervision, investigations, complaints, hearings, reports, approval of certificates of franchises, granting of certificates, approval of issues of stocks, bonds, notes and other evidence of indebtedness, keeping of accounts, fixing of just and reasonable rates, which shall be based on costs associated with any property of such corporations, shall be and are hereby made fully applicable to any joint municipal utility commission which owns, operates, controls or manages all or part of any gas or electric light works, heating or power plants, electrical energy resources or gas or electrical production, distribution or transmission facilities in this state. Nothing contained herein, however, shall affect the rights, privileges or duties of existing corporations pursuant to this chapter, including the construction of facilities within an existing certificated area.]

[393.765. All provisions of chapters 386, RSMo, and 393 in reference to the

2 jurisdiction, supervision, powers and duties of the public service commission with
3 reference to gas and electrical corporations are hereby made applicable to any
4 commission proposed to be created pursuant to sections 393.700 to 393.770 which
5 commission proposes to own, operate, control or manage any gas or electrical light
6 works, heating or power plant in this state, and such provisions shall have full
7 application thereto.]

Section B. Because immediate action is necessary to authorize certain utility projects,
2 the enactment of section 393.310, of this act is deemed necessary for the immediate preservation
3 of the public health, welfare, peace and safety, and is hereby declared to be an emergency act
4 within the meaning of the constitution, and the enactment of section 393.310 of this act shall be
5 in full force and effect upon its passage and approval.