

FIRST REGULAR SESSION  
HOUSE COMMITTEE SUBSTITUTE FOR  
SENATE SUBSTITUTE FOR  
SENATE COMMITTEE SUBSTITUTE FOR  
**SENATE BILL NO. 237**  
**93RD GENERAL ASSEMBLY**

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Reported from the Committee on Utilities, April 13, 2005 with recommendation that House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill No. 237 Do Pass. Referred to the Committee on Rules pursuant to Rule 25(26)(f).

STEPHEN S. DAVIS, Chief Clerk

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**AN ACT**

To repeal sections 227.240, 386.020, 392.200, 392.245, 392.500, 536.024, and 536.037, RSMo, and to enact in lieu thereof eight new sections relating to telecommunications companies, with penalty provisions.

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

Section A. Sections 227.240, 386.020, 392.200, 392.245, 392.500, 536.024, and  
2 536.037, RSMo, are repealed and eight new sections enacted in lieu thereof, to be known as  
3 sections 227.240, 386.020, 392.200, 392.245, 392.500, 536.024, 536.037, and 1, to read as  
4 follows:

227.240. 1. The location and removal of all telephone, [telegraph] **cable television**, and  
2 electric light and power transmission lines, poles, wires, and conduits and all pipelines and  
3 tramways, erected or constructed, or hereafter to be erected or constructed by any corporation,  
4 association or persons, within the right-of-way of any state highway, insofar as the public travel  
5 and traffic is concerned, and insofar as the same may interfere with the construction or  
6 maintenance of any such highway, shall be under the control and supervision of the state  
7 highways and transportation commission.

8 2. The commission or some officer selected by the commission shall serve a written  
9 notice upon the person or corporation owning or maintaining any such lines, poles, wires,

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.

10 conduits, pipelines, or tramways, which notice shall contain a plan or chart indicating the places  
11 on the right-of-way at which such lines, poles, wires, conduits, pipelines or tramways may be  
12 maintained. The notice shall also state the time when the work of hard surfacing said roads is  
13 proposed to commence, and shall further state that a hearing shall be had upon the proposed plan  
14 of location and matters incidental thereto, giving the place and date of such hearing.  
15 Immediately after such hearing the said owner shall be given a notice of the findings and orders  
16 of the commission and shall be given a reasonable time thereafter to comply therewith; provided,  
17 however, that the effect of any change ordered by the commission shall not be to remove all or  
18 any part of such lines, poles, wires, conduits, pipelines or tramways from the right-of-way of the  
19 highway. The removal of the same shall be made at the cost and expense of the owners thereof  
20 unless otherwise provided by said commission, and in the event of the failure of such owners to  
21 remove the same at the time so determined they may be removed by the state highways and  
22 transportation commission, or under its direction, and the cost thereof collected from such  
23 owners, and such owners shall not be liable in any way to any person for the placing and  
24 maintaining of such lines, poles, wires, conduits, pipelines and tramways at the places prescribed  
25 by the commission.

26 3. The commission is authorized in the name of the state of Missouri, to institute and  
27 maintain, through the attorney general, such suits and actions as may be necessary to enforce the  
28 provisions of this section. Any corporation, association or the officers or agents of such  
29 corporations or associations, or any other person who shall erect or maintain any such lines,  
30 poles, wires, conduits, pipelines or tramways, within the right-of-way of such roads which are  
31 hard-surfaced, which are not in accordance with such orders of the commission, shall be deemed  
32 guilty of a misdemeanor.

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  
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 Basic local telecommunications service does not include optional toll free calling outside a local  
32 calling scope but within a community of interest, available for an additional monthly fee or the  
33 offering or provision of basic local telecommunications service at private shared-tenant service  
34 locations;

35 (5) "Cable television service", the one-way transmission to subscribers of video  
36 programming or other programming service and the subscriber interaction, if any, which is  
37 required for the selection of such video programming or other programming service;

38 (6) "Carrier of last resort", any telecommunications company which is obligated to offer  
39 basic local telecommunications service to all customers who request service in a geographic area  
40 defined by the commission and cannot abandon this obligation without approval from the  
41 commission;

42 (7) "Commission", the "Public Service Commission" hereby created;

43 (8) "Commissioner", one of the members of the commission;

44 (9) "Competitive telecommunications company", a telecommunications company which  
45 has been classified as such by the commission pursuant to section 392.361, RSMo;

46 (10) "Competitive telecommunications service", a telecommunications service which  
47 has been classified as such by the commission pursuant to section **392.245, RSMo, or to section**  
48 **392.361, RSMo**, or which has become a competitive telecommunications service pursuant to  
49 section 392.370, RSMo;

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, RSMo, including the  
61 reasonableness of rates, as set out in section 392.185, RSMo, 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, RSMo;

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, RSMo, shall  
100 be a 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) "Interexchange telecommunications company", any company engaged in the  
111 provision of interexchange telecommunications service;

112 (24) "Interexchange telecommunications service", telecommunications service between  
113 points in two or more exchanges;

114 (25) "InterLATA", interexchange telecommunications service between points in different  
115 local access and transportation areas;

116 (26) "IntraLATA", interexchange telecommunications service between points within the  
117 same local access and transportation area;

118 (27) "Light rail" includes every rail transportation system in which one or more rail  
119 vehicles are propelled electrically by overhead catenary wire upon tracks located substantially  
120 within an urban area and are operated exclusively in the transportation of passengers and their  
121 baggage, and including all bridges, tunnels, equipment, switches, spurs, tracks, stations, used in

122 connection with the operation of light rail;

123 (28) "Line" includes route;

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

128 (30) "Local exchange telecommunications company", any company engaged in the  
129 provision of local exchange telecommunications service. A local exchange telecommunications  
130 company shall be considered a "large local exchange telecommunications company" if it has at  
131 least one hundred thousand access lines in Missouri and a "small local exchange  
132 telecommunications company" if it has less than one hundred thousand access lines in Missouri;

133 (31) "Local exchange telecommunications service", telecommunications service between  
134 points within an exchange;

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

141 (33) "Municipality" includes a city, village or town;

142 (34) "Nonbasic telecommunications services" shall be all regulated telecommunications  
143 services other than basic local and exchange access telecommunications services, and shall  
144 include the services identified in paragraphs (d) and (e) of subdivision (4) of this section. Any  
145 retail telecommunications service offered for the first time after August 28, 1996, shall be  
146 classified as a nonbasic telecommunications service, including any new service which does not  
147 replace an existing service;

148 (35) "Noncompetitive telecommunications company", a telecommunications company  
149 other than a competitive telecommunications company or a transitionally competitive  
150 telecommunications company;

151 (36) "Noncompetitive telecommunications service", a telecommunications service other  
152 than a competitive or transitionally competitive telecommunications service;

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

157 (38) "Operator services contract", any agreement between a traffic aggregator and a

158 certificated interexchange telecommunications company to provide operator services at a traffic  
159 aggregator location;

160 (39) "Person" includes an individual, and a firm or copartnership;

161 (40) "Private shared tenant services" includes the provision of telecommunications and  
162 information management services and equipment within a user group located in discrete private  
163 premises as authorized by the commission by a commercial-shared services provider or by a user  
164 association, through privately owned customer premises equipment and associated data  
165 processing and information management services and includes the provision of connections to  
166 the facilities of local exchange telecommunications companies and to interexchange  
167 telecommunications companies;

168 (41) "Private telecommunications system", a telecommunications system controlled by  
169 a person or corporation for the sole and exclusive use of such person, corporation or legal or  
170 corporate affiliate thereof;

171 (42) "Public utility" includes every pipeline corporation, gas corporation, electrical  
172 corporation, telecommunications company, water corporation, heat or refrigerating corporation,  
173 and sewer corporation, as these terms are defined in this section, and each thereof is hereby  
174 declared to be a public utility and to be subject to the jurisdiction, control and regulation of the  
175 commission and to the provisions of this chapter;

176 (43) "Railroad" includes every railroad and railway, other than street railroad or light rail,  
177 by whatsoever power operated for public use in the conveyance of persons or property for  
178 compensation, with all bridges, ferries, tunnels, equipment, switches, spurs, tracks, stations, real  
179 estate and terminal facilities of every kind used, operated, controlled or owned by or in  
180 connection with any such railroad;

181 (44) "Railroad corporation" includes every corporation, company, association, joint stock  
182 company or association, partnership and person, their lessees, trustees or receivers appointed by  
183 any court whatsoever, owning, holding, operating, controlling or managing any railroad or  
184 railway as defined in this section, or any cars or other equipment used thereon or in connection  
185 therewith;

186 (45) "Rate", every individual or joint rate, fare, toll, charge, reconsigning charge,  
187 switching charge, rental or other compensation of any corporation, person or public utility, or any  
188 two or more such individual or joint rates, fares, tolls, charges, reconsigning charges, switching  
189 charges, rentals or other compensations of any corporation, person or public utility or any  
190 schedule or tariff thereof;

191 (46) "Resale of telecommunications service", the offering or providing of  
192 telecommunications service primarily through the use of services or facilities owned or provided  
193 by a separate telecommunications company, but does not include the offering or providing of

194 private shared tenant services;

195 (47) "Service" includes not only the use and accommodations afforded consumers or  
196 patrons, but also any product or commodity furnished by any corporation, person or public utility  
197 and the plant, equipment, apparatus, appliances, property and facilities employed by any  
198 corporation, person or public utility in performing any service or in furnishing any product or  
199 commodity and devoted to the public purposes of such corporation, person or public utility, and  
200 to the use and accommodation of consumers or patrons;

201 (48) "Sewer corporation" includes every corporation, company, association, joint stock  
202 company or association, partnership or person, their lessees, trustees or receivers appointed by  
203 any court, owning, operating, controlling or managing any sewer system, plant or property, for  
204 the collection, carriage, treatment, or disposal of sewage anywhere within the state for gain,  
205 except that the term shall not include sewer systems with fewer than twenty-five outlets;

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

210 (50) "Street railroad" includes every railroad by whatsoever type of power operated, and  
211 all extensions and branches thereof and supplementary facilities thereto by whatsoever type of  
212 vehicle operated, for public use in the conveyance of persons or property for compensation,  
213 mainly providing local transportation service upon the streets, highways and public places in a  
214 municipality, or in and adjacent to a municipality, and including all cars, buses and other rolling  
215 stock, equipment, switches, spurs, tracks, poles, wires, conduits, cables, subways, tunnels,  
216 stations, terminals and real estate of every kind used, operated or owned in connection therewith  
217 but this term shall not include light rail as defined in this section; and the term "street railroad"  
218 when used in this chapter, shall also include all motor bus and trolley bus lines and routes and  
219 similar local transportation facilities, and the rolling stock and other equipment thereof and the  
220 appurtenances thereto, when operated as a part of a street railroad or trolley bus local  
221 transportation system, or in conjunction therewith or supplementary thereto, but such term shall  
222 not include a railroad constituting or used as part of a trunk line railroad system and any street  
223 railroad as defined above which shall be converted wholly to motor bus operation shall  
224 nevertheless continue to be included within the term "street railroad" as used herein;

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



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

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

238 (a) The rent, sale, lease, or exchange for other value received of customer premises  
239 equipment except for customer premises equipment owned by a telephone company certificated  
240 or otherwise authorized to provide telephone service prior to September 28, 1987, and provided  
241 under tariff or in inventory on January 1, 1983, which must be detariffed no later than December  
242 31, 1987, and thereafter the provision of which shall not be a telecommunications service, and  
243 except for customer premises equipment owned or provided by a telecommunications company  
244 and used for answering 911 or emergency calls;

245 (b) Answering services and paging services;

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

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

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

254 (f) Cable television service;

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

256 (h) Electronic publishing services; or

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

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

264 (55) "Traffic aggregator", any person, firm, partnership or corporation which furnishes  
265 a telephone for use by the public and includes, but is not limited to, telephones located in rooms,

266 offices and similar locations in hotels, motels, hospitals, colleges, universities, airports and  
267 public or customer-owned pay telephone locations, whether or not coin operated;

268 (56) "Transitionally competitive telecommunications company", an interexchange  
269 telecommunications company which provides any noncompetitive or transitionally competitive  
270 telecommunications service, except for an interexchange telecommunications company which  
271 provides only noncompetitive telecommunications service;

272 (57) "Transitionally competitive telecommunications service", a telecommunications  
273 service offered by a noncompetitive or transitionally competitive telecommunications company  
274 and classified as transitionally competitive by the commission pursuant to section 392.361 or  
275 392.370, RSMo;

276 (58) "Water corporation" includes every corporation, company, association, joint stock  
277 company or association, partnership and person, their lessees, trustees, or receivers appointed by  
278 any court whatsoever, owning, operating, controlling or managing any plant or property, dam or  
279 water supply, canal, or power station, distributing or selling for distribution, or selling or  
280 supplying for gain any water;

281 (59) "Water system" includes all reservoirs, tunnels, shafts, dams, dikes, headgates,  
282 pipes, flumes, canals, structures and appliances, and all other real estate, fixtures and personal  
283 property, owned, operated, controlled or managed in connection with or to facilitate the  
284 diversion, development, storage, supply, distribution, sale, furnishing or carriage of water for  
285 municipal, domestic or other beneficial use.

392.200. 1. Every telecommunications company shall furnish and provide with respect  
2 to its business such instrumentalities and facilities as shall be adequate and in all respects just  
3 and reasonable. All charges made and demanded by any telecommunications company for any  
4 service rendered or to be rendered in connection therewith shall be just and reasonable and not  
5 more than allowed by law or by order or decision of the commission. Every unjust or  
6 unreasonable charge made or demanded for any such service or in connection therewith or in  
7 excess of that allowed by law or by order or decision of the commission is prohibited and  
8 declared to be unlawful.

9 2. No telecommunications company shall directly or indirectly or by any special rate,  
10 rebate, drawback or other device or method charge, demand, collect or receive from any person  
11 or corporation a greater or less compensation for any service rendered or to be rendered with  
12 respect to telecommunications or in connection therewith, except as authorized in this chapter,  
13 than it charges, demands, collects or receives from any other person or corporation for doing a  
14 like and contemporaneous service with respect to telecommunications under the same or  
15 substantially the same circumstances and conditions. Promotional programs for  
16 telecommunications services may be offered by telecommunications companies for periods of

17 time so long as the offer is otherwise consistent with the provisions of this chapter and approved  
18 by the commission. Neither this subsection nor subsection 3 of this section shall be construed  
19 to prohibit an economy rate telephone service offering. This section and section 392.220 to the  
20 contrary notwithstanding, the commission is authorized to approve tariffs filed by local exchange  
21 telecommunications companies which elect to provide reduced charges for residential  
22 telecommunications connection services pursuant to the lifeline connection assistance plan as  
23 promulgated by the federal communications commission. Eligible subscribers for such  
24 connection services shall be those as defined by participating local exchange telecommunications  
25 company tariffs.

26 3. No telecommunications company shall make or give any undue or unreasonable  
27 preference or advantage to any person, corporation or locality, or subject any particular person,  
28 corporation or locality to any undue or unreasonable prejudice or disadvantage in any respect  
29 whatsoever except that telecommunications messages may be classified into such classes as are  
30 just and reasonable, and different rates may be charged for the different classes of messages.

31 4. (1) No telecommunications company may define a telecommunications service as a  
32 different telecommunications service based on the geographic area or other market segmentation  
33 within which such telecommunications service is offered or provided, unless the  
34 telecommunications company makes application and files a tariff or tariffs which propose relief  
35 from this subsection. Any such tariff shall be subject to the provisions of sections 392.220 and  
36 392.230 and in any hearing thereon the burden shall be on the telecommunications company to  
37 show, by clear and convincing evidence, that the definition of such service based on the  
38 geographic area or other market within which such service is offered is reasonably necessary to  
39 promote the public interest and the purposes and policies of this chapter.

40 (2) It is the intent of this act to bring the benefits of competition to all customers and to  
41 ensure that incumbent and alternative local exchange telecommunications companies have the  
42 opportunity to price and market telecommunications services to all prospective customers in any  
43 geographic area in which they compete. To promote the goals of the federal  
44 Telecommunications Act of 1996, for an incumbent local exchange telecommunications  
45 company in any exchange where an alternative local exchange telecommunications company has  
46 been certified and is providing basic local telecommunications services or switched exchange  
47 access services, or for an alternative local exchange telecommunications company, the  
48 commission shall review and approve or reject, within forty-five days of filing, tariffs for  
49 proposed different services as follows:

50 (a) For services proposed on an exchangewide basis, it shall be presumed that a tariff  
51 which defines and establishes prices for a local exchange telecommunications service or  
52 exchange access service as a different telecommunications service in the geographic area, no

53 smaller than an exchange, within which such local exchange telecommunications service or  
54 exchange access service is offered is reasonably necessary to promote the public interest and the  
55 purposes and policies of this chapter;

56 (b) For services proposed in a geographic area smaller than an exchange or other market  
57 segmentation within which or to whom such telecommunications service is proposed to be  
58 offered, a local exchange telecommunications company may petition the commission to define  
59 and establish a local exchange telecommunications service or exchange access service as a  
60 different local exchange telecommunications service or exchange access service. The  
61 commission shall approve such a proposal [if] **unless** it finds[, based upon clear and convincing  
62 evidence,] that such service in a smaller geographic area or such other market segmentation is  
63 [in] **contrary to** the public interest [and is reasonably necessary to promote competition and] **or**  
64 **is contrary to** the purposes of this chapter. Upon approval of such a smaller geographic area or  
65 such other market segmentation for a different service for one local exchange  
66 telecommunications company, all other local exchange telecommunications companies certified  
67 to provide service in that exchange may file a tariff to use such smaller geographic area or such  
68 other market segmentation to provide that service;

69 (c) For proposed different services described in paragraphs (a) and (b) of this  
70 subdivision, the local exchange telecommunications company which files a tariff to provide such  
71 service shall provide the service to all similarly situated customers, upon request in accordance  
72 with that company's approved tariff, in the exchange or geographic area smaller than an exchange  
73 or such other market segmentation for which the tariff was filed, and no price proposed for such  
74 service by an incumbent local exchange telecommunications company, other than for a  
75 competitive service, shall be lower than its long-run incremental cost, as defined in section  
76 386.020, RSMo;

77 (3) The commission, on its own motion or upon motion of the public counsel, may by  
78 order, after notice and hearing, define a telecommunications service offered or provided by a  
79 telecommunications company as a different telecommunications service dependent upon the  
80 geographic area or other market within which such telecommunications service is offered or  
81 provided and apply different service classifications to such service only upon a finding, based  
82 on clear and convincing evidence, that such different treatment is reasonably necessary to  
83 promote the public interest and the purposes and policies of this chapter.

84 5. No telecommunications company may charge a different price per minute or other unit  
85 of measure for the same, substitutable, or equivalent interexchange telecommunications service  
86 provided over the same or equivalent distance between two points without filing a tariff for the  
87 offer or provision of such service pursuant to sections 392.220 and 392.230. In any proceeding  
88 under sections 392.220 and 392.230 wherein a telecommunications company seeks to charge a

89 different price per minute or other unit of measure for the same, substitutable, or equivalent  
90 interexchange service, the burden shall be on the subject telecommunications company to show  
91 that such charges are in the public interest and consistent with the provisions and purposes of this  
92 chapter. The commission may modify or prohibit such charges if the subject telecommunications  
93 company fails to show that such charges are in the public interest and consistent with the  
94 provisions and purposes of this chapter. This subsection shall not apply to reasonable price  
95 discounts based on the volume of service provided, so long as such discounts are  
96 nondiscriminatory and offered under the same rates, terms, and conditions throughout a  
97 telecommunications company's certificated or service area.

98         6. Every telecommunications company operating in this state shall receive, transmit and  
99 deliver, without discrimination or delay, the conversations and messages of every other  
100 telecommunications company with whose facilities a connection may have been made.

101         7. The commission shall have power to provide the limits within which  
102 telecommunications messages shall be delivered without extra charge.

103         8. Customer-specific pricing is authorized **on an equal basis for incumbent and**  
104 **alternative local exchange companies, and for interexchange telecommunications**  
105 **companies** for:

106             (1) Dedicated, nonswitched, private line and special access services [and for];

107             (2) Central office-based switching systems which substitute for customer premise,  
108 private branch exchange (PBX) services[, provided such customer specific pricing shall be  
109 equally available to incumbent and alternative local exchange telecommunications companies];  
110 **and**

111             (3) **Any business service offered in an exchange in which basic local**  
112 **telecommunications service offered to business customers by the incumbent local exchange**  
113 **telecommunications company has been declared competitive under section 392.245.**

114         9. This act shall not be construed to prohibit the commission, upon determining that it  
115 is in the public interest, from altering local exchange boundaries, provided that the incumbent  
116 local exchange telecommunications company or companies serving each exchange for which the  
117 boundaries are altered provide notice to the commission that the companies approve the  
118 alteration of exchange boundaries.

119         10. Notwithstanding any other provision of this section, every telecommunications  
120 company is authorized to offer term agreements of up to five years on any of its  
121 telecommunications services.

122         11. Notwithstanding any other provision of this section, every telecommunications  
123 company is authorized to offer discounted rates or [other] special promotions on any of its  
124 telecommunications services to any **existing**, new, and/or former customers.

125           **12. Packages of services may be offered on an equal basis by incumbent and**  
126 **alternative local exchange companies and shall not be subject to regulation under sections**  
127 **392.240 or 392.245, nor shall packages of services be subject to the provisions of**  
128 **subsections 1 through 5 of this section, provided that each telecommunications service**  
129 **included in a package is available apart from the package of services and still subject to**  
130 **regulation under section 392.240 or 392.245. For the purposes of this subsection, a**  
131 **"package of services" includes more than one telecommunications service or one or more**  
132 **telecommunications service combined with one or more non telecommunications services.**

          392.245. 1. The commission shall have the authority to ensure that rates, charges, tolls  
2 and rentals for telecommunications services are just, reasonable and lawful by employing price  
3 cap regulation. **Any rate, charge, toll, or rental that does not exceed the maximum allowable**  
4 **price under this section shall be deemed to be just, reasonable, and lawful.** As used in this  
5 chapter, "price cap regulation" shall mean establishment of maximum allowable prices for  
6 telecommunications services offered by an incumbent local exchange telecommunications  
7 company, which maximum allowable prices shall not be subject to increase except as otherwise  
8 provided in this section.

9           2. A large incumbent local exchange telecommunications company shall be subject to  
10 regulation under this section upon a determination by the commission that an alternative local  
11 exchange telecommunications company has been certified to provide basic local  
12 telecommunications service and is providing such service in any part of the large incumbent  
13 company's service area. A small incumbent local exchange telecommunications company may  
14 elect to be regulated under this section upon providing written notice to the commission if an  
15 alternative local exchange telecommunications company has been certified to provide basic local  
16 telecommunications service and is providing such service, **or if two or more commercial**  
17 **mobile service providers providing wireless two-way voice communications services, are**  
18 **providing services,** in any part of the small incumbent company's service area, and the  
19 incumbent company shall remain subject to regulation under this section after such election.

20           3. Except as otherwise provided in this section, the maximum allowable prices  
21 established for a company under subsection 1 of this section shall be those in effect on December  
22 thirty-first of the year preceding the year in which the company is first subject to regulation under  
23 this section. Tariffs authorized under subsection 9 of this section shall be phased in as provided  
24 under such tariffs as approved by the commission.

25           4. (1) Except as otherwise provided in subsections 8 and 9 of this section and section  
26 392.248, the maximum allowable prices for exchange access and basic local telecommunications  
27 services of a small, incumbent local exchange telecommunications company regulated under this  
28 section shall not be changed for a period of twelve months after the date the company is subject

29 to regulation under this section. Except as otherwise provided in subsections 8 and 9 of this  
30 section and section 392.248, the maximum allowable prices for exchange access and basic local  
31 telecommunications services of a large, incumbent local exchange telecommunications company  
32 regulated under this section shall not be changed prior to January 1, 2000. Thereafter, the  
33 maximum allowable prices for exchange access and basic local telecommunications services of  
34 an incumbent local exchange telecommunications company shall be annually changed by one of  
35 the following methods:

36 (a) By the change in the telephone service component of the Consumer Price Index  
37 (CPI-TS), as published by the United States Department of Commerce or its successor agency  
38 for the preceding twelve months; or

39 (b) Upon request by the company and approval by the commission, by the change in the  
40 Gross Domestic Product Price Index (GDP-PI), as published by the United States Department  
41 of Commerce or its successor agency for the preceding twelve months, minus the productivity  
42 offset established for telecommunications service by the Federal Communication Commission  
43 and adjusted for exogenous factors;

44 (2) The commission shall approve a change to a maximum allowable price filed pursuant  
45 to paragraph (a) of subdivision (1) of this subsection within forty-five days of filing of notice by  
46 the local exchange telecommunications company. An incumbent local exchange  
47 telecommunications company shall file a tariff to reduce the rates charged for any service in any  
48 case in which the current rate exceeds the maximum allowable price established under this  
49 subsection.

50 (3) As a part of its request under paragraph (b) of subdivision (1) of this subsection, a  
51 company may seek commission approval to use a different productivity offset in lieu of the  
52 productivity offset established by the Federal Communication Commission. An adjustment  
53 under paragraph (b) of subdivision (1) of this subsection shall not be implemented if the  
54 commission determines, after notice and hearing to be conducted within forty-five days of the  
55 filing of the notice of a change to a maximum allowable price, that it is not in the public interest.  
56 In making such a determination, the commission shall consider the relationship of the proposed  
57 price of service to its cost and the impact of competition on the incumbent local exchange  
58 telecommunications company's intrastate revenues from regulated telecommunications services.  
59 Any adjustments for exogenous factors shall be allocated to the maximum allowable prices for  
60 exchange access and basic local telecommunications service in the same percentage as the  
61 revenues for such company bears to such company's total revenues from basic local, nonbasic  
62 and exchange access services for the preceding twelve months.

63 (4) For the purposes of this section, the term "exogenous factor" shall mean a cumulative  
64 impact on a local exchange telecommunications company's intrastate regulated revenue

65 requirement of more than three percent, which is attributable to federal, state or local government  
66 laws, regulations or policies which change the revenue, expense or investment of the company,  
67 and the term "exogenous factor" shall not include the effect of competition on the revenue,  
68 expense or investment of the company nor shall the term include any assessment made under  
69 section 392.248.

70 (5) An incumbent local exchange telecommunications company may change the rates  
71 for its services, consistent with the provisions of **subsections 2 through 5 of** section 392.200,  
72 but not to exceed the maximum allowable prices, by filing tariffs which shall be approved by the  
73 commission within thirty days, provided that any such rate is not in excess of the maximum  
74 allowable price established for such service under this section.

75 5. Each telecommunications service **offered to business customers, other than**  
76 **exchange access service**, of an incumbent local exchange telecommunications company  
77 **regulated under this section** shall be classified as competitive in any exchange in which at least  
78 [one alternative local exchange telecommunications company has been certified under section  
79 392.455 and has provided basic local telecommunications service in that exchange for at least  
80 five years, unless the commission determines, after notice and a hearing, that effective  
81 competition does not exist in the exchange for such service. The commission shall, from time  
82 to time, on its own motion or motion by an incumbent local exchange telecommunications  
83 company, investigate the state of competition in each exchange where an alternative local  
84 exchange telecommunication company has been certified to provide local exchange  
85 telecommunications service and shall determine, no later than five years following the first  
86 certification of an alternative local exchange telecommunication company in such exchange,  
87 whether effective competition exists in the exchange for the various services of the incumbent  
88 local exchange telecommunications company] **two non-affiliated entities in addition to the**  
89 **incumbent local exchange company are providing basic local telecommunications service**  
90 **to business customers within the exchange. Each telecommunications service offered to**  
91 **residential customers, other than exchange access service, of an incumbent local exchange**  
92 **telecommunications company regulated under this section shall be classified as competitive**  
93 **in an exchange in which at least two non-affiliated entities in addition to the incumbent**  
94 **local exchange company are providing basic local telecommunications service to residential**  
95 **customers within the exchange. For purposes of this subsection:**

96 (1) **Commercial mobile service providers as identified in 47 U.S.C. Section 332(d)(1)**  
97 **and 47 C.F.R. Parts 22 or 24 shall be considered as entities providing basic local**  
98 **telecommunications service, provided that only one such non-affiliated provider shall be**  
99 **considered as providing basic local telecommunications service within an exchange;**

100 (2) **Any entity providing local voice service in whole or in part over**



101 **telecommunications facilities or other facilities in which it or one of its affiliates have an**  
102 **ownership interest shall be considered as a basic local telecommunications service provider**  
103 **regardless of whether such entity is subject to regulation by the commission. A provider**  
104 **of local voice service that requires the use of a third party, unaffiliated broadband network**  
105 **or dial-up Internet network for the origination of local voice service shall not be considered**  
106 **a basic local telecommunications service provider. For purposes of this subsection only,**  
107 **a broadband network is defined as a connection that delivers services at speeds exceeding**  
108 **two hundred kilobits per second in at least one direction;**

109 **(3) Regardless of the technology utilized, local voice service shall mean two-way**  
110 **voice service capable of receiving calls from a provider of basic local telecommunications**  
111 **services as defined by subdivision (4) of section 386.020, RSMo;**

112 **(4) Telecommunications companies only offering prepaid telecommunications**  
113 **service or only reselling telecommunications service as defined in subdivision (46) of section**  
114 **386.020, RSMo, in the exchange being considered for competitive classification shall not**  
115 **be considered entities providing basic telecommunications service; and**

116 **(5) Prepaid telecommunications service shall mean a local service for which**  
117 **payment is made in advance that excludes access to operator assistance and long distance**  
118 **service;**

119 **(6) Upon request of an incumbent local exchange telecommunications company**  
120 **seeking competitive classification of business service or residential service, or both, the**  
121 **commission shall, within thirty days of the request, determine whether the requisite**  
122 **number of entities are providing basic local telecommunications service to business or**  
123 **residential customers, or both, in an exchange and if so, shall approve tariffs designating**  
124 **all such business or residential services other than exchange access service, as competitive**  
125 **within such exchange. Notwithstanding any other provision of this subsection, any**  
126 **incumbent local exchange company may petition the commission for competitive**  
127 **classification within an exchange based on competition from any entity providing local**  
128 **voice service in whole or in part by using its own telecommunications facilities or other**  
129 **facilities or the telecommunications facilities or other facilities of a third party, including**  
130 **those of the incumbent local exchange company as well as providers that rely on an**  
131 **unaffiliated third-party Internet service. The commission shall approve such petition**  
132 **within sixty days unless it finds that such competitive classification is contrary to the public**  
133 **interest. The commission shall maintain records of regulated providers of local voice**  
134 **service, including those regulated providers who provide local voice service over their own**  
135 **facilities, or through the use of facilities of another provider of local voice service. In**  
136 **reviewing an incumbent local exchange telephone company's request for competitive status**

137 **in an exchange, the commission shall consider their own records concerning ownership of**  
138 **facilities and shall make all inquiries as are necessary and appropriate from regulated**  
139 **providers of local voice service to determine the extent and presence of regulated local**  
140 **voice providers in an exchange.** If the [commission determines that effective competition  
141 exists in the exchange] **services of an incumbent local exchange telecommunications**  
142 **company are classified as competitive under this subsection,** the local exchange  
143 telecommunications company may thereafter adjust its rates for such competitive services  
144 upward or downward as it determines appropriate in its competitive environment, **upon filing**  
145 **tariffs which shall become effective within the timelines identified in section 392.500.** [If  
146 the commission determines that effective competition does not exist in the exchange, the  
147 provisions of paragraph (c) of subdivision (2) of subsection 4 of section 392.200 and the  
148 maximum allowable prices established by the provisions of subsections 4 and 11 of this section  
149 shall continue to apply.] The commission shall [from time to time, but no less than], **at least**  
150 **every [five] two years, or where an incumbent local exchange telecommunications company**  
151 **increases rates for basic local telecommunications services in an exchange classified as**  
152 **competitive,** review [the state of competition in] those exchanges where [it has previously found  
153 the existence of effective competition,] **an incumbent local exchange carrier's services have**  
154 **been classified as competitive, to determine if the conditions of this subsection for**  
155 **competitive classification continue to exist in the exchange** and if the commission determines,  
156 after hearing, that [effective competition] **such conditions** no longer [exists] **exist** for the  
157 incumbent local exchange telecommunications company in such exchange, it shall reimpose  
158 upon the incumbent local exchange telecommunications company, in such exchange, the  
159 provisions of paragraph (c) of subdivision (2) of subsection 4 of section 392.200 and the  
160 maximum allowable prices established by the provisions of subsections 4 and 11 of this section,  
161 and, in any such case, the maximum allowable prices established for the telecommunications  
162 services of such incumbent local exchange telecommunications company shall reflect all index  
163 adjustments which were or could have been filed from all preceding years since the company's  
164 maximum allowable prices were first adjusted pursuant to subsection 4 or 11 of this section.

165         6. Nothing in this section shall be interpreted to alter the commission's jurisdiction over  
166 quality and conditions of service or to relieve telecommunications companies from the obligation  
167 to comply with commission rules relating to minimum basic local and interexchange  
168 telecommunications service.

169         7. A company regulated under this section shall not be subject to regulation under  
170 subsection 1 of section 392.240.

171         8. An incumbent local exchange telecommunications company regulated under this  
172 section may reduce intrastate access rates, including carrier common line charges, subject to the

173 provisions of subsection 9 of this section, to a level not to exceed one hundred fifty percent of  
174 the company's interstate rates for similar access services in effect as of December thirty-first of  
175 the year preceding the year in which the company is first subject to regulation under this section.  
176 Absent commission action under subsection 10 of this section, an incumbent local exchange  
177 telecommunications company regulated under this section shall have four years from the date the  
178 company becomes subject to regulation under this section to make the adjustments authorized  
179 under this subsection and subsection 9 of this section. Nothing in this subsection shall preclude  
180 an incumbent local exchange telecommunications company from establishing its intrastate access  
181 rates at a level lower than one hundred fifty percent of the company's interstate rates for similar  
182 access services in effect as of December thirty-first of the year preceding the year in which the  
183 company is first subject to regulation under this section.

184         9. Other provisions of this section to the contrary notwithstanding and no earlier than  
185 January 1, 1997, the commission shall allow an incumbent local exchange telecommunications  
186 company regulated under this section which reduces its intrastate access service rates pursuant  
187 to subsection 8 of this section to offset the revenue loss resulting from the first year's access  
188 service rate reduction by increasing its monthly maximum allowable prices applicable to basic  
189 local exchange telecommunications services by an amount not to exceed one dollar fifty cents.  
190 A large incumbent local exchange telecommunications company shall not increase its monthly  
191 rates applicable to basic local telecommunications service under this subsection unless it also  
192 reduces its rates for intraLATA interexchange telecommunications services by at least ten  
193 percent. No later than one year after the date the incumbent local exchange telecommunications  
194 company becomes subject to regulation under this section, the commission shall complete an  
195 investigation of the cost justification for the reduction of intrastate access rates and the increase  
196 of maximum allowable prices for basic local telecommunications service. If the commission  
197 determines that the company's monthly maximum allowable average statewide prices for basic  
198 local telecommunications service after adjustment pursuant to this subsection will be equal to  
199 or less than the long run incremental cost, as defined in section 386.020, RSMo, of providing  
200 basic local telecommunications service and that the company's intrastate access rates after  
201 adjustment pursuant to this subsection will exceed the long run incremental cost, as defined in  
202 section 386.020, RSMo, of providing intrastate access services, the commission shall allow the  
203 company to offset the revenue loss resulting from the remaining three-quarters of the total  
204 needed to bring that company's intrastate access rates to one hundred fifty percent of the  
205 interstate level by increasing the company's monthly maximum allowable prices applicable to  
206 basic local telecommunications service by an amount not to exceed one dollar fifty cents on each  
207 of the next three anniversary dates thereafter; otherwise, the commission shall order the reduction  
208 of intrastate access rates and the increase of monthly maximum allowable prices for basic local

209 telecommunications services to be terminated at the levels the commission determines to be  
210 cost-justified. The total revenue increase due to the increase to the monthly maximum allowable  
211 prices for basic local telecommunications service shall not exceed the total revenue loss resulting  
212 from the reduction to intrastate access service rates.

213 10. Any telecommunications company whose intrastate access costs are reduced pursuant  
214 to subsections 8 and 9 of this section shall decrease its rates for intrastate toll  
215 telecommunications service to flow through such reduced costs to its customers. The  
216 commission may permit a telecommunications company to defer a rate reduction required by this  
217 subdivision until such reductions, on a cumulative basis, reach a level that is practical to flow  
218 through to its customers.

219 11. The maximum allowable prices for nonbasic telecommunications services of a small,  
220 incumbent local exchange telecommunications company regulated under this section shall not  
221 be changed until twelve months after the date the company is subject to regulation under this  
222 section or, on an exchange-by-exchange basis, until an alternative local exchange  
223 telecommunications company is certified and providing basic local telecommunications service  
224 in such exchange, whichever is earlier. The maximum allowable prices for nonbasic  
225 telecommunications services of a large, incumbent local exchange telecommunications company  
226 regulated under this section shall not be changed until January 1, 1999, or on an exchange-  
227 by-exchange basis, until an alternative local exchange telecommunications company is certified  
228 and providing basic local telecommunications service in such exchange, whichever is earlier.  
229 Thereafter, the maximum allowable prices for nonbasic telecommunications services of an  
230 incumbent local exchange telecommunications company may be annually increased by up to  
231 [eight] **five** percent for each of the following twelve-month periods upon providing notice to the  
232 commission and filing tariffs establishing the rates for such services in such exchanges at such  
233 maximum allowable prices. This subsection shall not preclude an incumbent local exchange  
234 telecommunications company from proposing new telecommunications services and establishing  
235 prices for such new services. An incumbent local exchange telecommunications company may  
236 change the rates for its services, consistent with the provisions of **subsections 2 through 5 of**  
237 section 392.200, but not to exceed the maximum allowable prices, by filing tariffs which shall  
238 be approved by the commission within thirty days, provided that any such rate is not in excess  
239 of the maximum allowable price established for such service under this section.

240 12. The commission shall permit an incumbent local exchange telecommunications  
241 company regulated under this section to determine and set its own depreciation rates which shall  
242 be used for all intrastate regulatory purposes. Provided, however, that such a determination is  
243 not binding on the commission in determining eligibility for or reimbursement under the  
244 universal service fund established under section 392.248.

245           **13. Prior to January 1, 2006, the commission shall determine the weighted,**  
246 **statewide average rate of nonwireless basic local telecommunications services as of the**  
247 **effective date of this section. The commission shall likewise determine the weighted,**  
248 **statewide average rate of nonwireless basic local telecommunications services two years**  
249 **and five years after the effective date of this section. The commission shall report its**  
250 **findings to the general assembly by January 30, 2008, and provide a second study by**  
251 **January 30, 2011. If the commission finds that the weighted, statewide average rate of**  
252 **nonwireless basic local telecommunications service in 2008 or 2011 is greater than the**  
253 **weighted, statewide average rate of nonwireless basic local telecommunications service in**  
254 **2006 multiplied by one plus the percentage increase in the Consumer Price Index for all**  
255 **goods and services for the study periods, the commission shall recommend to the general**  
256 **assembly such changes in state law as the commission deems appropriate to achieve the**  
257 **purposes set forth in section 392.185. In determining the weighted, statewide average rate**  
258 **of nonwireless basic local telecommunications service permitted under subsections 8 and**  
259 **9 of this section and section 392.240 or exogenous costs incurred by the providers of**  
260 **nonwireless basic local telecommunications service.**

          392.500. Except as provided in **subsections 2 to 5** of section 392.200, proposed changes  
2 in rates or charges, or any classification or tariff provision affecting rates or charges, for any  
3 competitive telecommunications service, shall be treated pursuant to this section as follows:

4           (1) Any proposed decrease in rates or charges, or proposed change in any classification  
5 or tariff resulting in a decrease in rates or charges, for any competitive telecommunications  
6 service shall be permitted only upon the filing of the proposed rate, charge, classification or tariff  
7 after [seven] **one** days' notice to the commission; and

8           (2) Any proposed increase in rates or charges, or proposed change in any classification  
9 or tariff resulting in an increase in rates or charges, for any competitive telecommunications  
10 service shall be permitted [only upon] **ten days after** the filing of the proposed rate, charge,  
11 classification or tariff and upon notice to all potentially affected customers through a notice in  
12 each such customer's bill at least ten days prior to the date for implementation of such increase  
13 or change, or, where such customers are not billed, by an equivalent means of prior notice.

          536.024. 1. When the general assembly authorizes any state agency to adopt  
2 administrative rules or regulations, the granting of such rulemaking authority and the validity of  
3 such rules and regulations is contingent upon the agency complying with the provisions of this  
4 section in promulgating such rules after June 3, 1994.

5           2. Upon filing any proposed rule with the secretary of state, the filing agency shall  
6 concurrently submit such proposed rule to the joint committee on administrative rules, which  
7 may hold hearings upon any proposed rule or portion thereof at any time.

8           3. A final order of rulemaking shall not be filed with the secretary of state until thirty  
9 days after such final order of rulemaking has been received by the committee. The committee  
10 may hold one or more hearings upon such final order of rulemaking during the thirty-day period.

11           4. The committee may file with the secretary of state any comments or recommendations  
12 that the committee has concerning a proposed or final order of rulemaking. Such comments shall  
13 be published in the Missouri Register.

14           5. The committee may refer comments or recommendations concerning such rule to the  
15 appropriations and budget committees of the house of representatives and the appropriations  
16 committee of the senate for further action.

17           6. The provisions of this section shall not apply to rules adopted by the [public service  
18 commission and the] labor and industrial relations commission.

536.037. 1. There is established a permanent joint committee of the general assembly  
2 to be known as the "Committee on Administrative Rules", which shall be composed of five  
3 members of the senate and five members of the house of representatives. The senate members  
4 of the committee shall be appointed by the president pro tem of the senate and the house  
5 members by the speaker of the house. The appointment of each member shall continue during  
6 his term of office as a member of the general assembly unless sooner removed. No major party  
7 shall be represented by more than three appointed members from either house.

8           2. The committee on administrative rules shall meet within ten days after its creation and  
9 organize by selecting a chairman and a vice chairman, one of whom shall be a member of the  
10 senate and one of whom shall be a member of the house of representatives. A majority of the  
11 members constitutes a quorum. Meetings of the committee may be called at such time and place  
12 as the chairman designates.

13           3. The committee shall review all rules promulgated by any state agency after January  
14 1, 1976, except rules promulgated by the [public service commission and the] labor and  
15 industrial labor relations commission. In its review the committee may take such action as it  
16 deems necessary which may include holding hearings.

17           4. The members of the committee shall receive no compensation in addition to their  
18 salary as members of the general assembly, but may receive their necessary expenses while  
19 attending the meetings of the committee, to be paid out of the joint contingent fund.

**Section 1. Any rule or portion of a rule, as that term is defined in section 536.010,  
2 RSMo, that is created under authority delegated to the Public Service Commission shall  
3 become effective only if it complies with and is subject to all of the provisions of chapter  
4 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536,  
5 RSMo, are nonseverable and if any of the powers vested with the general assembly  
6 pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and**

7 **annul a rule are subsequently held unconstitutional, then the grant of rulemaking**  
8 **authority and any rule proposed or adopted after August 28, 2005, shall be invalid and**  
9 **void.**