

FIRST REGULAR SESSION

[PERFECTED]

HOUSE COMMITTEE SUBSTITUTE FOR

# HOUSE BILL NO. 527

101ST GENERAL ASSEMBLY

1096H.02P

DANA RADEMAN MILLER, Chief Clerk

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## AN ACT

To repeal sections 393.170 and 523.262, RSMo, and to enact in lieu thereof two new sections relating to eminent domain for certain utilities.

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

Section A. Sections 393.170 and 523.262, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 393.170 and 523.262, to read as follows:

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

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

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

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.

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

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

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

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

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

6           2. A private utility company, public utility, rural electric cooperative, municipally owned  
7 utility, pipeline, railroad or common carrier shall have the power of eminent domain as may be  
8 granted pursuant to the provisions of other sections of the revised statutes of Missouri. For the  
9 purposes of this section, the term "common carrier" shall not include motor carriers, contract  
10 carriers, or express companies. Where a condemnation by such an entity results in a displaced  
11 person, as defined in section 523.200, the provisions of subsections 3 and 6 to 10 of section  
12 523.205 shall apply unless the condemning entity is subject to the relocation assistance  
13 provisions of the federal Uniform Relocation Assistance Act.

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

21           **4. (1) Notwithstanding the provisions of subsection 2 of this section, no entity shall**  
22 **have the power of eminent domain under the provisions of this section for the purpose of**  
23 **constructing above-ground merchant lines.**

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

25           **(a) "Entity", a utility company that does not provide service to end-use customers**  
26 **or provide retail service in Missouri, or does not collect its costs to provide service under**  
27 **a regional transmission organization tariff, regardless of whether it has received a**  
28 **certificate of convenience and necessity from the public service commission under section**  
29 **393.170;**

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

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

36           **(4) This subsection shall not apply to any rural electric cooperative organized or**  
37 **operating under the provisions of chapter 394, or to any corporation organized on a**  
38 **nonprofit or a cooperative basis as described in subsection 1 of section 394.200, or to any**  
39 **electrical corporation operating under a cooperative business plan as described in**  
40 **subsection 2 of section 393.110.**

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