

SENATE COMMITTEE SUBSTITUTE

FOR

SENATE BILL NO. 184

AN ACT

To repeal sections 386.020 and 523.010, RSMo, and to enact in lieu thereof three new sections relating to broadband operations and services using electrical corporation broadband infrastructure.

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

Section A. Sections 386.020 and 523.010, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 386.020, 393.1420, and 523.010, to read as follows:

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

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

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

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

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

(a) Multiparty, single line, including installation, touchtone dialing, and any applicable mileage or zone charges;

(b) Assistance programs for installation of, or access to, basic local telecommunications services for qualifying economically disadvantaged or disabled customers or both, including, but not limited to, lifeline services and link-up Missouri services for low-income customers or dual-party relay service for the hearing impaired and speech impaired;

(c) Access to local emergency services including, but not limited to, 911 service established by local authorities;

(d) Access to basic local operator services;

(e) Access to basic local directory assistance;

(f) Standard intercept service;

(g) Equal access to interexchange carriers consistent with rules and regulations of the Federal Communications Commission;

(h) One standard white pages directory listing.

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

(5) "Cable television service", the one-way transmission to subscribers of video programming or other programming service and the subscriber interaction, if any,

which is required for the selection of such video programming or other programming service;

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

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

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

(9) "Competitive telecommunications company", a telecommunications company which has been classified as such by the commission pursuant to section 392.245 or 392.361;

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

(11) "Corporation" includes a corporation, company, association and joint stock association or company;

(12) "Customer-owned pay telephone", a privately owned telecommunications device that is not owned, leased or otherwise controlled by a local exchange telecommunications company and which provides telecommunications services for a use fee to the general public;

(13) "Effective competition" shall be determined by the commission based on:

(a) The extent to which services are available from alternative providers in the relevant market;

(b) The extent to which the services of alternative providers are functionally equivalent or substitutable at comparable rates, terms and conditions;

(c) The extent to which the purposes and policies of chapter 392, including the reasonableness of rates, as set out in section 392.185, are being advanced;

(d) Existing economic or regulatory barriers to entry; and

(e) Any other factors deemed relevant by the commission and necessary to implement the purposes and policies of chapter 392;

(14) "Electric plant" includes all real estate, fixtures and personal property operated, controlled, owned, used or to be used for or in connection with or to facilitate the generation, transmission, distribution, sale or furnishing of electricity for light, heat or power; and any conduits, ducts or other devices, materials, apparatus or property for containing, holding or carrying conductors used or to be used for the transmission of electricity for light, heat or power; and broadband infrastructure operated, controlled, owned, used, or to be used for, in connection with, or to facilitate the provision of electric service, broadband operations, or broadband service. For purposes of this subdivision, "broadband infrastructure", "broadband operations", and "broadband service" mean the same as in subsection 2 of section 393.1420;

(15) "Electrical corporation" includes every corporation, company, association, joint stock company or association, partnership and person, their lessees, trustees or receivers appointed by any court whatsoever, other than a railroad, light rail or street railroad corporation generating electricity solely for railroad, light rail or street railroad purposes or for the use of its tenants and

not for sale to others, owning, operating, controlling or managing any electric plant except where electricity is generated or distributed by the producer solely on or through private property for railroad, light rail or street railroad purposes or for its own use or the use of its tenants and not for sale to others. The term "electrical corporation" shall not include:

(a) Municipally owned electric utilities operating under chapter 91;

(b) Rural electric cooperatives operating under chapter 394;

(c) Persons or corporations not otherwise engaged in the production or sale of electricity at wholesale or retail that sell, lease, own, control, operate, or manage one or more electric vehicle charging stations;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(29) "Line" includes route;

(30) "Local access and transportation area" or "LATA", contiguous geographic area approved by the U.S. District

Court for the District of Columbia in United States v. Western Electric, Civil Action No. 82-0192 that defines the permissible areas of operations for the Bell Operating companies;

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

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

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

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

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

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

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

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

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

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

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

(42) "Private telecommunications system", a telecommunications system controlled by a person or

corporation for the sole and exclusive use of such person, corporation or legal or corporate affiliate thereof;

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) Answering services and paging services;

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

(d) Services provided by a hospital, hotel, motel, or other similar business whose principal service is the

provision of temporary lodging through the owning or operating of message switching or billing equipment solely for the purpose of providing at a charge telecommunications services to its temporary patients or guests;

(e) Services provided by a private telecommunications system;

(f) Cable television service;

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

(h) Electronic publishing services;

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

(j) Interconnected voice over internet protocol service;

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

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

(57) "Transitionally competitive telecommunications company", an interexchange telecommunications company which provides any noncompetitive or transitionally competitive

telecommunications service, except for an interexchange telecommunications company which provides only noncompetitive telecommunications service;

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

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

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

393.1420. 1. This section shall be known and may be cited as the "Electrical Corporation Broadband Authorization Act".

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

(1) "Broadband infrastructure", any and all component parts of an electrical corporation's infrastructure that may be used to provide broadband services, whether now existing

or that may be developed in the future, and including, but not limited to, wires, copper cables, fiber optic cables, conduits, ducts, poles, antennas, transmitters, receivers, amplifiers, switches, multiplexers, routers, servers, and all appurtenances thereto so long as such component parts are associated with a three hundred forty-five kilovolt or similarly sized electric transmission line;

(2) "Broadband operations", operation of all or any portion of an electrical corporation's broadband infrastructure in a manner that can be used by broadband services providers to provide broadband services;

(3) "Broadband services":

(a) The provision of access to dark fiber within fiber optic cables, whether directly to end-use customers, or to third parties for the third party's subsequent provision of access to such dark fiber to end-use customers; or

(b) The provision to third parties who are not end-use customers, for the third party's subsequent provision to end-use customers, of connectivity, via lit fiber or other components of the broadband infrastructure, whether to a data or information transmission medium, or to a technology, and in either case for purposes of accessing the internet or providing other capabilities including, but not limited to, information sharing, information storage, information content, or protocol conversion;

(4) "Broadband services provider", a person that is not majority-owned or otherwise controlled by an electrical corporation that uses an electrical corporation's broadband infrastructure to provide broadband services;

(5) "Commission", the public service commission;

(6) "Electrical corporation", the same as defined in section 386.020.

3. (1) To the extent not otherwise authorized by law, and in addition to all other purposes for which electrical corporations may be formed under the laws of this state and all other powers and authority currently granted to electrical corporations under the laws of this state, an electrical corporation shall be authorized to do any or all of the following:

(a) Own, construct, install, maintain, repair, and replace broadband infrastructure;

(b) Operate the electrical corporation's broadband infrastructure for or in connection with the electrical corporation's provision of electric service;

(c) Engage in broadband operations, or permit a broadband services provider to engage in broadband operations, using the electrical corporation's broadband infrastructure;

(d) Permit a broadband services provider to provide broadband services, using the electrical corporation's broadband infrastructure; and

(e) Enter into contracts, leases, licenses, or other agreements, concerning broadband operations or broadband services, with broadband services providers, or third parties, on any terms and conditions, including rates and charges, as the electrical corporation in its sole discretion shall determine and, notwithstanding the provisions of section 393.190 or any other law to the contrary, without securing any authorization, permission, or approval from the commission. Rates and charges shall be standardized for all broadband services providers.

(2) An electrical corporation shall not require any of its electric service customers to purchase broadband services provided via the electrical corporation's broadband

infrastructure as a condition of receiving or continuing to receive electric service from the electrical corporation.

(3) An electrical corporation shall not disconnect any customer from receiving electric service due to the customer's failure to pay for broadband services provided via the electrical corporation's broadband infrastructure.

(4) An electrical corporation shall not provide broadband services to end-use customers.

4. (1) As used in this subsection, "broadband operations revenue" shall mean revenue received by an electrical corporation for the provision of broadband operations.

(2) When determining the revenue requirement used to set the electrical corporation's base rates in the electrical corporation's general rate proceedings, the following shall be included:

(a) The electrical corporation's test year broadband operations revenues, as updated, trued-up, or normalized, if applicable;

(b) The electrical corporation's prudently-incurred test year operations and maintenance expenditures associated with generating the revenues in paragraph (a) of this subdivision; and

(c) The electrical corporation's prudently-incurred investment in broadband infrastructure as of the date the electrical corporation's other rate base additions are accounted for.

(3) Any ordinance adopted under section 71.520 or section 229.100 shall also grant the electrical corporation the right to construct, install, maintain, repair, and replace broadband infrastructure; the right to engage in broadband operations via the electrical corporation's broadband infrastructure; and the right to provide broadband

services via the electrical corporation's broadband infrastructure, through a broadband services provider, on and subject to the terms and conditions of such ordinance.

5. Notwithstanding any provision of chapters 386 or 393 to the contrary, and consistent with the authority and discretion granted to electrical corporations in paragraph (e) of subdivision (1) of subsection 3 of this section, the commission shall not have jurisdiction over the terms, conditions, charges, contracts, leases, licenses, or other agreements of an electrical corporation for the electrical corporation's operations or provision of broadband services through a broadband services provider.

523.010. 1. In case land, or other property, is sought to be appropriated by any road, railroad, street railway, telephone, telegraph or any electrical corporation organized for the manufacture, distribution, or transmission of electric current for light, heat, [or] power, or the provision of broadband services, including the construction, when that is the case, of necessary dams and appurtenant canals, flumes, tunnels and tailraces and including the erection, when that is the case, of necessary electric steam powerhouses, hydroelectric powerhouses, and electric substations or any oil, pipeline or gas corporation engaged in the business of transporting or carrying oil, liquid fertilizer solutions, or gas by means of pipes or pipelines laid underneath the surface of the ground, or other corporation created under the laws of this state for public use, and such corporation and the owners cannot agree upon the proper compensation to be paid, or in the case the owner is incapable of contracting, be unknown, or be a nonresident of the state, such corporation may apply to the circuit court of the county of this state where such land or any part thereof lies by petition setting forth the general

directions in which it is desired to construct its road, railroad, street railway, telephone, or telegraph line or electric line, including, when that is the case, the construction and maintenance of necessary dams and appurtenant canals, tunnels, flumes and tailraces and, when that is the case, the appropriation of land submerged by the construction of such dam, and including the erection and maintenance, when that is the case, of necessary electric steam powerhouses, hydroelectric powerhouses and electric substations, the construction of broadband infrastructure, or oil, pipeline, liquid fertilizer solution pipeline, or gas line over or underneath the surface of such lands, a description of the real estate, or other property, which the company seeks to acquire; the names of the owners thereof, if known; or if unknown, a pertinent description of the property whose owners are unknown and praying the appointment of three disinterested residents of the county, as commissioners, or a jury, to assess the damages which such owners may severally sustain in consequence of the establishment, erection and maintenance of such road, railroad, street railway, telephone, telegraph line, [or] electrical line, or broadband infrastructure including damages from the construction and maintenance of necessary dams and the condemnation of land submerged thereby, and the construction and maintenance of appurtenant canals, flumes, tunnels and tailraces and the erection and maintenance of necessary electric steam powerhouses, hydroelectric powerhouses and electric substations, or oil, pipeline, or gas line over or underneath the surface of such lands; to which petition the owners of any or all as the plaintiff may elect of such parcels as lie within the county or circuit may be made parties defendant by names if the names are

known, and by the description of the unknown owners of the land therein described if their names are unknown.

2. If the proceedings seek to affect the lands of persons under conservatorship, the conservators must be made parties defendant. If the present owner of any land to be affected has less estate than a fee, the person having the next vested estate in remainder may at the option of the petitioners be made party defendant; but if such remaindermen are not made parties, their interest shall not be bound by the proceedings.

3. It shall not be necessary to make any persons party defendants in respect to their ownership unless they are either in actual possession of the premises to be affected claiming title or having a title of the premises appearing of record upon the proper records of the county.

4. Except as provided in subsection 5 of this section, nothing in this chapter shall be construed to give a public utility, as defined in section 386.020, or a rural electric cooperative, as provided in chapter 394, the power to condemn property which is currently used by another provider of public utility service, including a municipality or a special purpose district, when such property is used or useful in providing utility services, if the public utility or cooperative seeking to condemn such property, directly or indirectly, will use or proposes to use the property for the same purpose, or a purpose substantially similar to the purpose for which the property is being used by the provider of the public utility service.

5. A public utility or a rural electric cooperative may only condemn the property of another provider of public utility service, even if the property is used or useful in providing utility services by such provider, if the condemnation is necessary for the public purpose of

acquiring a nonexclusive easement or right-of-way across the property of such provider and only if the acquisition will not materially impair or interfere with the current use of such property by the utility or cooperative and will not prevent or materially impair such provider of public utility service from any future expansion of its facilities on such property.

6. If a public utility or rural electric cooperative seeks to condemn the property of another provider of public utility service, and the conditions in subsection 4 of this section do not apply, this section does not limit the condemnation powers otherwise possessed by such public utility or rural electric cooperative.

7. Suits in inverse condemnation or involving dangerous conditions of public property against a municipal corporation established under Article VI, Section 30(a) of the Missouri Constitution shall be brought only in the county where such land or any part thereof lies.