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FOR

SENATE BILL NO. 555

AN ACT

To repeal section 91.030, RSMo, and to enact in lieu thereof two new sections relating to the supply of electrical power and energy to aluminum smelting facilities, with an emergency clause.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI, AS FOLLOWS:

1 Section A. Section 91.030, RSMo, is repealed and two new
2 sections enacted in lieu thereof, to be known as sections 91.026
3 and 91.030, to read as follows:

4 91.026. 1. As used in this section, the following terms
5 mean:

6 (1) "Commission", the Missouri public service commission;

7 (2) "Aluminum smelting facility", a facility whose primary
8 industry is the smelting of aluminum and primary metals, Standard
9 Industrial Classification Code 3334, is located in a county of

1 the second classification, which has used over three million
2 megawatt hours of electricity during a calendar year, and has had
3 electrical service provided to said facility in the past, in part
4 or whole, by a municipally owned utility and, in part or whole,
5 by an electric generating cooperative owned by rural electric
6 cooperatives;

7 (3) "Delivery services", transmission, distribution, or
8 metering of electric power and energy or services ancillary
9 thereto or related services;

10 (4) "Municipally owned utility", a utility as defined in
11 subdivision (1) of subsection 1 of section 91.025;

12 (5) "Local electric service utility", an electrical
13 corporation engaged in the furnishing of local electric service
14 to consumers under a certificate of convenience and necessity
15 issued by the commission, any municipal electric distribution
16 system or electric cooperative.

17 2. Notwithstanding any provisions of law to the contrary,
18 any aluminum smelting facility shall have the right to purchase
19 and contract to purchase electric power and energy and delivery
20 services from any provider, wherever found or located, at
21 whatever rates or charges as contracted for, and such periods or
22 times as is needed or necessary or convenient for the operation
23 of such aluminum smelting facility and for no other purpose,
24 notwithstanding any past circumstances of supply. Any aluminum
25 smelting facility purchasing or contracting to purchase electric
26 power and energy pursuant to this section shall not resell such
27 electric power and energy to any party except the original
28 providers of such electric power and energy.

1 3. Notwithstanding the provisions of section 91.025,
2 section 393.106, RSMo, and section 394.315, RSMo, to the
3 contrary, any provider of such electric power and energy and
4 delivery services, whether or not otherwise under Missouri
5 regulatory jurisdiction, shall have the right to transact for and
6 sell electric power and energy and delivery services to an
7 aluminum smelting facility. Any transactions or contracts
8 pursuant to this section for electric power and energy and
9 delivery services shall not be subject to the jurisdiction of the
10 commission with regard to the determination of rates.

11 4. When current electric power and energy is being supplied
12 in part or in whole by a municipally owned utility and in part or
13 whole by an electric generating cooperative owned by rural
14 electric cooperatives and not under any contract authorized
15 pursuant to this section, a replacement contract pursuant to the
16 provisions of subsections 2 and 3 of this section shall provide
17 for all of the electric power and energy and delivery services
18 requirements of the aluminum smelter and shall meet the following
19 criteria:

20 (1) The aluminum smelting facility's change of supplier
21 shall have no negative financial impact on any past supplier or
22 suppliers or to other electricity customers of such supplier or
23 suppliers;

24 (2) The supply arrangements made by the aluminum smelting
25 facility when operated in coordination with the local electric
26 infrastructure shall not reduce the reliability of service to
27 other customers or the safety of any person;

28 (3) The aluminum smelting facility's change of electric

1 supplier shall not cause a reduction in tax revenue to the state
2 of Missouri or any political subdivision;

3 (4) No billing or metering functions of any municipally
4 owned utility will be changed or affected as a result of a change
5 of electric supplier by such aluminum smelting facility.

6 5. No local electric service utility provider of electric
7 power and energy or delivery services shall have any obligation
8 to supply or deliver backup, peaking or emergency power to a
9 aluminum smelting facility exercising its rights under this
10 section, nor liability for inability or failure to provide such
11 power, except as may be established by written contract.

12 6. Once an aluminum smelting facility has purchased
13 electric power pursuant to its rights pursuant to this section,
14 no past supplier of energy and related services shall have any
15 obligation to provide electric power and energy and delivery
16 services to such aluminum smelting facility except as may be
17 established by written contract.

18 7. The provisions of this section recognize highly unique
19 circumstances of aluminum smelting facilities and are not to be
20 interpreted as condoning or conceding the suitability of retail
21 electric restructuring for any customer or class of customers in
22 the state of Missouri.

23 91.030. Any city, town or village in this state, having
24 authority to maintain and operate an electric light and power
25 plant, may procure electric current and ancillary services for
26 that purpose from any other city, owning and operating such
27 plant, or other lawful supplier and to that end may enter into a
28 contract therefor with such city or other supplier having such

1 plant for such period and upon such terms as may be agreed by the
2 contracting parties solely on the approval by the governing board
3 or council of such municipality owned or operated electric power
4 system or by its duly authorized representative without further
5 regulatory or public approval, notwithstanding any provisions of
6 law to the contrary.

7 Section B. Because immediate action is necessary in order
8 to ensure the continued operation of certain aluminum smelting
9 facilities in this state, section A of this act is deemed
10 necessary for the immediate preservation of the public health,
11 welfare, peace and safety, and is hereby declared to be an
12 emergency act within the meaning of the constitution, and section
13 A of this act shall be in full force and effect upon its passage
14 and approval.