



Strategic Capitol

C o n s u l t i n g

The 2018 Missouri legislative session concluded on May 18, 2018 at 6:00 p.m. The Senate and House operated as intended with committee action and floor debate running smoothly. This normal procedure is notable given the tumultuous political climate surrounding then-Governor Eric Greitens. Greitens was accused of everything from sexual misconduct to myriad financial crimes including converting charitable fundraising lists for political use, misusing grants for political use, taking and concealing foreign campaign contributions and lying on an affidavit. These allegations prompted the Legislature to call an unprecedented special session to consider impeaching the governor.

Then, last Tuesday, Greitens again flipped Missouri politics on its head and resigned. Greitens claimed, “he cannot allow those forces to continue to cause pain and difficulty to the people that I love.” However, before resigning at 5pm on Friday June 1, Greitens hurriedly signed 77 of the 144 bills that the Legislature passed this session.

New Governor Mike Parson has stated he will be reviewing all of the bills the former governor signed before his departure. Unlike Greitens, Parson brings experience to the office. Parson spent time in both the House, including serving as Rules Chair and the Senate. Parson’s decades of public service have been marked by ethics, fairness and deal making.

Items of specific interest to Independence Power and Light are detailed below:

HB 1729, 1621, & 1436 – Prevailing Wage

This bill amends Missouri's prevailing wage law. Currently, contractors and subcontractors working on public works projects are required to pay employees the prevailing wage for the particular locality in which the project is being completed. This bill instead requires that either the prevailing wage or public works contracting minimum wage be paid for workers on public works. The prevailing wage shall be paid for occupations in localities where at least 1,000 reportable works hours occur, but otherwise workers shall be paid the public works contracting minimum wage.

The prevailing wage shall be set using the weighted average of the wages for an occupational title, and the public works contracting minimum wage shall be 120% of the average hourly wage in a particular locality. Wage determination schedules are provided in the bill.

Prevailing wage shall not be paid for public works where the estimated cost, or accepted bids, are \$75,000 or less. All public works projects estimated to cost, or with an accepted bid of \$10,000 or less for all occupational titles shall be exempt from competitive bidding requirements.

HB 1797 – Nuclear Plant Security

This bill defines "armed nuclear security guard," "structure or fenced yard," and "nuclear power plant" for purposes of the laws relating to armed nuclear security guards.

The bill specifies the levels of physical force, including deadly force, an armed nuclear security guard may use against another person at a nuclear power plant or within a structure or fenced yard of a nuclear power plant to prevent certain dangerous actions by the other person.

An armed nuclear security guard, employer of an armed nuclear security guard, or owner of a nuclear power plant will not be subject to civil liability for conduct of an armed nuclear security guard that is permitted in the bill.

The bill also provides that an offense that would be trespass in the first degree, a class B misdemeanor, occurs at a building of or on real property of a nuclear power plant, it will be a class E felony.

HB 1872 – Missouri Rural Broadband Development

This bill establishes a grant program within the Department of Economic Development to expand broadband Internet access to unserved and under-served parts of Missouri. Grants may be awarded to fund the acquisition and installation of middle-mile and last-mile infrastructure that support Internet speeds of at least 25 megabits per second download and 3 megabit per second upload. Grants may be provided to corporations registered in Missouri along with their affiliates, incorporated businesses or partnerships, nonprofit organizations, cooperative associations, and political subdivisions.

The department is directed to develop certain application procedures for the grant program, while other procedural time lines are already provided, and the grant application's requirements are specified in the bill. The department shall give priority to applications for broadband service projects in unserved areas, unserved areas where there is a demonstration of the ability to receive matching funds, and under-served areas, in that respective order.

HB 1991 - Utility Infrastructure

This act modifies provisions relating to the deployment of utilities infrastructure.

Public Right-Of-Way

This act modifies the definition of "managing the public right-of-way" to include that permitting requirements for wireless communications facilities shall be consistent with the Uniform Wireless Communications Infrastructure Deployment Act and the Uniform Small Wireless Facility Deployment Act.

Currently, certain political subdivisions may enact ordinances charging a public utility right-of-way user a linear foot fee if the right-of-way user does not pay gross receipts taxes. This act prohibits political subdivisions from assessing a linear foot fee or antenna fee if the right-of-way user pays business license fees, or business license taxes that are imposed specifically on communications-related revenue, services, or equipment.

Uniform Small Wireless Facility Deployment Act

This act establishes the Uniform Small Wireless Facility Deployment Act.

Wireless Providers Within the Right-Of-Way

This act prohibits an authority, defined as the state or any political subdivision thereof excluding municipal electric utilities, from entering into an exclusive arrangement with any person for the use of the right-of-way for the collocation of small wireless facilities or the installation or replacement of utility poles. This act also allows wireless providers to collocate small wireless facilities and install and replace utility poles in the public right-of-way, except for in single-family residential neighborhoods or historic neighborhoods. Small wireless facilities collocated outside the right-of-way on property not zoned for residential use shall be classified as permitted and not subject to zoning review or approval. The new or replaced utility poles shall meet certain criteria as set forth in this act. Small wireless facility collocations shall not interfere with existing utility facilities, and an authority may require a wireless provider to repair all damage to the right-of-way caused by the provider's activities. If such provider does not make the required repairs, the authority may affect those repairs and charge the provider accordingly.

Permitting of Small Wireless Facilities and Utility Poles

This act prohibits an authority from prohibiting, regulating, or charging for the collocation of small wireless facilities, except as provided under this act.

An authority may require a wireless provider to obtain a permit to collocate a small wireless facility or install or replace a utility pole. Such authority shall receive applications and issue permits, subject to certain requirements and permit issuance timelines set forth in this act. An authority shall not require an application for routine maintenance on previously permitted small wireless facilities, the replacement of small wireless facilities, or the installation of micro wireless facilities strung between utility poles. No approval for the installation of a small wireless facility shall be construed to confer authorization for the provision of cable TV service, or the installation of a wireline backhaul facility or communications facility, in the right-of-way. This act also prohibits an authority from enforcing any ordinance requiring holders of a franchise or video service authorization to obtain additional authorization or pay additional fees for service for facilities in the right-of-way.

Collocations on Authority Poles and Support Structures Outside of the Right-Of-Way

This act requires an authority to authorize the collocation of small wireless facilities on authority wireless support structures and utility poles to the same extent the authority permits access to such structures for other commercial projects or uses. Further, this act prohibits an authority from entering into an exclusive agreement with a wireless provider concerning authority poles or support structures, including stadiums and enclosed arenas, unless the agreement meets certain requirements set forth in this act.

Wireless Provider Activities Within the Right-Of-Way

This act prohibits a person owning, managing, or controlling authority utility poles in the right-of-way from entering into an exclusive arrangement with any person for the right to attach to such poles. An authority may require, as part of an application, engineering and construction

drawings, and an estimate of cost of any make-ready work needed, for which the applicant shall be responsible.

Under this act, make-ready work shall be addressed as follows: rates, fees, terms, and conditions for make-ready work to collocate on an authority pole shall be nondiscriminatory, the authority shall provide a good faith estimate for any make-ready work necessary and work within the timelines set forth in this act, and the person owning or managing the authority utility pole shall not require more make-ready work than required to meet applicable codes or industry standards. Fees for make-ready work shall not exceed actual costs.

When a small wireless facility is located in the right-of-way on the state highway system, equipment and facilities associated with such facility shall remain in the utility corridor except to reach a utility pole outside the corridor where a small wireless facility is collocated.

Authority Rates and Fees for Placement of a Wireless Facility, Support Structure, or Utility Pole
This act prohibits an authority from requiring a wireless provider to pay any rates, fees, or compensation to the authority for the right to use the right-of-way, for collocation of small wireless facilities, or for the installation and replacement of utility poles in the right-of-way. The rates to collocate on authority poles shall be nondiscriminatory regardless of the services provided by the collocating person.

Further, this act sets forth criteria for application fees that may be assessed by an authority, including that application fees shall be based on actual administrative costs and any such costs recovered by existing fees, rates, licenses, or taxes paid by a wireless services provider shall not be included in setting the application fee. An application fee shall not include travel expenses incurred by a third party, and the total fee for any application for the collocation of a small wireless facility on an existing utility pole shall not exceed \$100 per small wireless facility, including for consolidated applications. Total application fees for the installation, modification, or replacement of a utility pole and collocation of a small wireless facility shall not exceed \$500 per pole, and the rate for collocation of a small wireless facility to an authority pole shall not exceed \$100 per pole per year.

Under this act, an authority shall not demand any fees for small wireless facilities except those authorized under this act, applicable taxes, applicable linear foot fees, and right-of-way permit fees. Right-of-way permit fees shall be competitively neutral, and shall not be in the form of a franchise fee or tax, or other fee based on non-cost related factors.

Scope of Act

Nothing in this act shall be interpreted to allow any entity to provide service regulated under certain provisions of federal law, without compliance with such federal provisions. Further, nothing in this act shall be interpreted to impose new requirements on cable providers for the provision of such service.

Authority Planning and Zoning

Subject to the provisions of this act, an authority may continue to exercise zoning, land use, planning, and permitting authority within its boundaries, including with respect to wireless

support structures and utility poles. An authority shall not have jurisdiction over the installation or operation of any small wireless facility in an interior structure, or upon the site of any campus, stadium, or athletic facility not owned or controlled by the authority.

Authority Ordinances, Pole Attachment Agreements, and Jurisdiction

This act requires, within a certain timeline, an authority to adopt an ordinance or develop an agreement that makes available to wireless providers rates, fees, and terms that comply with this act. Nothing in this act shall nullify a mutual agreement between an authority and wireless provider entered into prior to August 28, 2018.

A court of competent jurisdiction shall have jurisdiction to determine all disputes arising under this act.

Indemnification, Insurance, and Bonding

This act allows an authority to adopt indemnification, insurance, and bonding requirements related to small wireless facility permits, except an authority may only require a wireless provider to indemnify and hold harmless the authority in certain claims. Further, an authority may require a wireless provider to obtain and have proof of insurance coverage, or a comparable self-insurance program, prior to the effective date of any permit issued for a small wireless facility, but the authority shall not require such provider to name the authority or its officers or employees as additionally insured. An authority may adopt bonding requirements for small wireless facilities if the authority imposes similar requirements in connection with permits issued for other similarly situated utility right-of-way users. Such bonds shall provide for the removal of abandoned or improperly maintained small wireless facilities, restore the right-of-way in connection with such abandoned facilities, and shall assist in recouping rates or fees that have not been paid by a wireless provider in over 12 months. Such bonding requirements shall not exceed \$1,500 per small wireless facility, and shall not exceed \$75,000 across all facilities within the jurisdiction of a single authority. Entities that have at least \$25 million in assets and do not have a history of permitting noncompliance shall be exempt from insurance and bonding requirements set forth under this act. Further, this act requires any contractor or wireless infrastructure provider to be under contract with a wireless services provider in order to perform work in the right-of-way.

The State Highways and Transportation Commission may apply the same indemnification, insurance, and bonding requirements to small wireless facility permits as it imposes on other users of the Commission right-of-way.

The Uniform Small Wireless Facility Deployment Act shall become effective January 1, 2019, and shall expire on January 1, 2021, except that the collocation rate for small wireless facilities shall remain in effect for the duration of the permit authorizing the collocation.

Report

This act requires the Department of Revenue, by December 31, 2018, to prepare a report for the General Assembly on the amount of revenue collected by local governments from certain service providers.

This act contains a severability clause.

SB 659 – Department of Natural Resources

This bill modifies the provisions relating to the Department of Natural Resources.

State Parks

This bill requires the Department of Natural Resources to submit a report to the General Assembly on or before January 1, 2019, and annually thereafter, regarding the maintenance, repair, and construction at State Parks and Historic Sites. The report must include certain information including the total cost of maintenance; repair and construction projects the prior fiscal year; specific information on projects where costs exceed the state competitive bid minimum; a list of projects for the upcoming year that meet certain criteria; the amount of revenue generated and the operating expenditures for each park and historic site; and the total revenue generated at all parks and historic sites averaged over the past two fiscal years.

Coal Combustion Residual

The bill repeals the current exemption from solid waste permitting requirements for coal combustion generation facilities in Kansas City and authorizes the department to promulgate rules and approve site-specific target levels for the management, closure, and post closure of coal combustion residual (CCR) units. The rules may allow for the use of risk-based decision making and establish target levels for soil and groundwater impacted by CCR constituents.

Until the department has an approved and effective state program, the department is authorized to issue guidance or enter into enforceable agreements with site owners or operators to establish risk-based target levels using the Missouri Risk-Based Corrective Action (MRBCA).

The department must promulgate the rules by December 31, 2018, for CCR surface impoundments, but is not authorized to promulgate rules requiring a construction or operating permit for CCR impoundment closure or corrective action, or post-closure ground water monitoring for certain CCR surface impoundments. The rules, including location restrictions and design standards cannot be more restrictive than federal regulations, with a few exceptions explained in the bill.

Lead-Acid Battery Fee

This bill extends from December 31, 2018, to December 31, 2023, the \$.50 fee that is collected on the retail sale of a lead-acid battery as well as the fees for any hazardous waste generated.

Radioactive Waste Investigation Fund

This bill creates the "Radioactive Waste Investigation Fund" to be used by the Department of Natural Resources to investigate concerns of exposure to radioactive waste. Upon request of a local governing body, the department will use the money in the fund to investigate and collect soil and dust samples.

The department will work with local officials to design a testing plan, including collecting at least 500 samples within a one-mile radius, that will provide conclusive evidence to determine if the area is contaminated, and report the results to the body that requested the investigation. Monies from the Hazardous Waste Fund can be transferred, upon appropriation, to the Radioactive Waste Investigation Fund. Transfers to the fund cannot exceed \$150,000 per fiscal year.

Environmental Restoration Act

This bill creates the "Environmental Restoration Corporation Act," which allows for the formation of a nonprofit corporation to hold, manage, or own environmentally impaired property that is subject to an ongoing cleanup or remedial action.

In addition to the powers of all nonprofit corporations, any environmental restoration corporation has certain additional powers as specified in the bill, including the ability to acquire, accept, convey, dispose, encumber, manage and own real property that is subject to certain clean up or remedial action and to enter into contracts with private or public entities to conduct, manage, oversee, and regulate activities that may be necessary for the implementation of clean up and remedial actions on such property. The property must be located in Jefferson, Washington, St. Francois, Iron, Madison, Reynolds and Wayne counties.

Any environmental restoration corporation will be managed by a board of no less than five directors, who will initially be appointed by the incorporators. The bill specifies the make-up of the board and its duties and requirements. All actions of the corporations must be taken at meetings open to the public, except for confidential matter relating to personnel, contracts, or litigation.

If an environmental restoration corporation receives public funds for any activities at a specific property, the corporation must allow for periodic audits by the State Auditor and upon request, provide an annual report to the General Assembly concerning the receipt and use of the funds. Any conveyance of property to a third party may include an environmental covenant or conservation easement. Prior to acquiring interest in real property subject to restoration activities, a corporation must undertake all due diligence activities under U.S. Environmental Protection Agency regulations to qualify as a bona fide prospective purchaser, which would make the corporation immune from liability under certain Missouri laws. However, the corporation must comply with all regulatory requirements. A corporation owes no duty of care and has no liability to any trespasser who enters onto the corporation's property (Section 260.1150).

Petroleum Storage Tank Insurance Fund

Currently, the fund expires on December 31, 2020. The bill extends the expiration date to December 31, 2025 and establishes the "Task Force on the Petroleum Storage Tank Insurance Fund." The task force shall be composed of eight members, with three being from the House of Representatives and appointed by the Speaker, three from the Senate, and two industry stakeholders. The task force shall conduct research and compile a report, by December 31, 2018, on certain topics relating to the Petroleum Storage Tank Insurance Fund.

Fuel Standards

Currently, all fuels shall meet American Society for Testing and Materials (ASTM) standards, in addition to rules promulgated by the Director of the Department of Agriculture. The bill allows the director to waive specific requirements, or establish temporary alternative requirements in the event of an extreme and unusual fuel supply circumstance. The waiver must be as limited in scope and applicability as necessary, and applied equally and uniformly to all persons and companies in the impacted fuel supply and distribution system.

Water Supply and Sewer System Grants

This bill increases the potential grant amount administered by the Department of Natural Resources for the benefit of public water supply districts, sewer districts, rural community water or sewer systems, or municipal sewer systems. The current grant limitation of \$1,400 per water connection is increased to \$3,000 per connection.

SB 564 – Public Utilities

Rate Schedules for Interim Energy Interim Energy Charges or Periodic Rate Adjustment

This bill authorizes electrical corporations to apply to the Public Service Commission for an interim rate change mechanism outside of a general rate case to adjust for impacts to utility revenues. However, the authorization shall only be granted from January 1, 2019, to January 1, 2029. Any electrical corporation that applies for an interim rate change mechanism shall quarterly file a surveillance report with required components detailed in the bill.

Complaint Procedure

This bill maintains that a complaint brought to the commission against a public utility must be for a violation of law under the commission's jurisdiction, any rule promulgated by the commission, or of any utility tariff or order.

Rate Making Considerations of Federal Tax Reform

This bill provides that the commission shall have the one-time authority to adjust the rates of electrical corporations that do not have general rate proceedings pending as of February 1, 2018, or August 28, 2018, to reflect the effects of the federal 2017 Tax Cut and Jobs Act. As an alternative to the rate change, an electrical corporation may make deferrals to a regulatory asset, provided that good cause is shown. This portion of the bill is subject to an emergency clause.

Certificate of Convenience and Necessity

Currently, any electrical plant or other electrical generating facility must receive a certificate of convenience and necessity from the commission before construction can begin. This bill provides that such a certificate need not be obtained for electrical generating facilities with a capacity of one megawatt or less.

Qualifying Electric Plants In-Service Accounting and Capital Investment

This bill creates a voluntary program for electrical corporations for the creation of regulatory assets using plant-in-service accounting. This program specifies that electrical corporations shall defer 85% of all depreciation expenses and returns associated with qualifying electric plants recorded to plant-in-service to a regulatory asset. The regulatory asset shall then be included in those electrical corporations' rate base without any other offsets or adjustments except as provided in the bill.

Beginning February 28, 2019, an electrical corporation availing itself of the benefits of the regulatory asset creation shall annually submit a five-year capital investment plan to the commission with specific criteria as specified in the bill. Within 30 days of submitting an investment plan, the electrical corporation shall hold a public stakeholder meeting to answer questions and receive feedback. After receiving feedback, the electrical corporation may modify its filed investment plan.

This section of the bill expires on December 31, 2028, except that all regulatory assets created under this section and amortization thereof shall nonetheless continue to be included in an electrical corporation's rate base.

Pilot Projects

The bill also states that the commission may approve pilot projects if the project is designed to advance the proposing electrical corporation's knowledge of deploying such technology.

Discounted Electric Rates

This bill creates an electric rate discount for high energy users who apply for a discounted rate before the public announcement of a growth project. An eligible customer shall receive local, regional, or state economic development incentives, and add incremental load with an average monthly demand of at least 300kW with a load factor of at least 55% within two years after the application for a discounted rate is submitted. Such a discount shall be a percentage applied to all base rate components of the bill, and shall be applied for up to five years.

The average annual discount shall be 40% on all base rate components, and an additional 10% discount for one year after the expiration of the initial discount if the customer takes service from an under-utilized circuit. Any reduced revenues arising from the discounted rate shall be borne by all of the electrical corporation's customer classes. This provision expires on December 31, 2028, except as stated otherwise in the bill.

Contractor Qualification and Bidding

This bill requires electrical corporations with more than one million Missouri customers to develop a qualification process for the competitive bidding of contractors seeking construction contracts for distribution system projects. The electrical corporation may specify the eligibility requirements for contractors, but the electrical corporation shall not weigh any contractor favorably or unfavorably due to a union affiliation, except when work is being performed under a project labor agreement.

Within 30 days of the effective date of this bill, the electrical corporation shall file a verified statement with the commission stating that it has in place a qualification process. Any general rate proceeding filing thereafter shall be accompanied with a verified statement that the electrical corporation is using a competitive bidding process for installing no less than 10% of combined external installation expenditures in Missouri for construction services on distribution system projects. Nothing in this bill shall require an electrical corporation to use a qualified contractor or competitive bidding process in the case of an emergency, or to terminate any existing contract prior to its expiration. The commission shall report to the General Assembly by December 31, 2020, and annually thereafter, on the effects of contractor qualification and bidding.

Rate Increase Limitations

This bill limits rate increases for electrical corporations that elect to be subject to the provisions of Section 393.1400, and that have more than 200,000 Missouri customers. An electrical corporation's base rates shall remain static for three years, except that rates may change due to a reduction in revenues resulting from weather, an act of God, war, terrorism, or other uncontrollable event. If the average overall rate for an electrical corporation with a general rate proceeding pending before the commission as of February 1, 2018, or August 28, 2018, increases by more than 3%, then the electrical corporation shall not collect any amount exceeding that 3% as a penalty. If the average overall rate for an electrical corporation that does not have a general rate proceeding pending before the Public Service Commission as of February 1, 2018, or August 28, 2018, increases by more than 2.85% percent, then the electrical corporation shall not collect any amount exceeding that 2.85% percent as a penalty. Revenues not recovered due to the penalty and subsequent lowering of rates shall be deferred to the regulatory asset created under Section 393.1400, or recovered through an amortization in base rates.

Additionally, if base rates for the any participating electrical corporation's large power service rate class increase by more than 2%, such base rate shall be limited to a 2% increase with any reduced revenues arising from such a limitation being allocated amongst all other customers.

Solar Energy Investment

This bill requires electrical corporations with one million or more Missouri customers to invest no less than \$14 million in utility owned solar facilities in either Missouri or adjacent states by December 31, 2023. Electrical corporations with less than one million but not more than 200,000 Missouri customers shall invest at least \$4 million in solar facilities in either Missouri or adjacent states by December 31, 2023. Electrical corporations with less than 200,000 Missouri customers shall invest no less than \$3,500,000 in solar facilities in either Missouri or adjacent states by December 31, 2023. If the required solar investments result in an increase of average retail rates of more than 1%, then the costs shall be deferred and later recovered through a rate mechanism.

Solar Energy Rebates

The bill requires electrical corporations to issue solar energy rebates equal to \$0.50 per watt for solar energy systems that become operational between January 1, 2019, and June 30, 2019. From

June 30, 2019, and December 31, 2023, the solar rebate shall be \$0.25 per watt. However, the solar rebates shall only apply up to 25 kilowatts per system for residential energy users and 150 kilowatts per system for nonresidential energy users. The amount of solar rebates a particular electrical corporation will be required to honor is further limited in the bill.

Electrical corporations shall be allowed to recover the costs of all solar rebates under Missouri's renewable portfolio standard, and shall be allowed to defer and amortize the recovery of such costs through either base rates or a surcharge. However, any recovery resulting in an increase of more than 1% of the average retail rate shall be deferred to a regulatory asset, and recovered through base rates or another rate adjustment mechanism. The solar rebate provision of the bill expires December 31, 2023, except for the extent provided.

Nonseverability

This bill states that all of its provisions are nonseverable, and that all of its provisions shall be deemed invalid if any individual provision is so held.

SB 598 – Transportation Utility Corridor

This bill directs the Department of Transportation to establish a utility corridor up to 12 feet in width within the existing right-of-way when space is reasonably available.

SB 705 – Rate Adjustments

This bill enables water and sewer corporations to apply to the Public Service Commission for an interim rate change outside of a general rate proceeding to ensure that revenue requirements are met.

This bill also requires water corporations with more than 1000 Missouri customers to develop a qualification process for the competitive bidding of contractors seeking construction contracts for distribution system projects.

Within 30 days of the effective date of this bill and the water corporation's filing of a general rate proceeding, the water corporation shall file a verified statement with the commission stating that it has in place a bid qualification process. Any general rate proceeding filing thereafter shall be accompanied with a verified statement that the electrical corporation is using a competitive bidding process for installing no less than 10% of combined external installation expenditures in Missouri for construction services on distribution system projects.

The commission shall report to the General Assembly by December 31, 2020, and annually thereafter, on the effects of contractor qualification and bidding.

SB 768 – Taxation

This act modifies several provisions relating to the taxation of telecommunications companies.

Property Tax Assessment of Telephone Companies

Beginning January 1, 2019, this act allows telephone companies to make a one-time election of whether to have their property assessed in the same manner as railroads, as in current law, or in

the same manner as railroads for property consisting of land and buildings and under a depreciation schedule for all other forms of property, as described in the act.

If a school district whose operating levy is at the tax rate ceiling receives less tax revenue from a specific telephone company as a result of such telephone company selecting the alternate assessment method, it may by resolution impose a fee to be paid by the telephone company until such time as the school district receives voter approval to raise its tax operating levy.

Sales Tax Exemptions for Telecommunications Services

This act provides that, for the purposes of sales and use tax exemptions for certain manufacturing and the use or consumption of energy for manufacturing, the term "product" shall include telecommunications services and the term "manufacturing" shall include the production, or production and transmission, of telecommunications service.

This act also provides that such definitions were the original legislative intent and abrogates the Missouri Supreme Court's decision in *IBM Corporation v. Director of Revenue*, 491 S.W.3d 535 (Mo. banc 2016) to the extent that such decision is inconsistent with such definitions and the Court's decisions in *DST Systems, Inc. v. Director of Revenue*, 43 S.W.3d 799 (Mo. banc 2001), *Southwestern Bell Tel. Co. v. Director of Revenue*, 78 S.W.3d 763 (Mo. banc 2002), and *Southwestern Bell Tel. Co. v. Director of Revenue*, 182 S.W.3d 226 (Mo. banc 2005).

SB 917 – Coal Combustion Residual

This bill repeals the current exemption from solid waste permitting requirements for coal combustion generation facilities in Kansas City.

This bill also authorizes the Department of Natural Resources to promulgate rules and approve site-specific target levels for the management, closure, and post-closure of coal combustion residual (CCR) units. The rules must be as protective as 40 CFR 257. The rules may allow for the use of risk-based decision making and establish target levels for soil and groundwater impacted by CCR constituents.

The Missouri Risk-Based Corrective Action (MRBCA) rule and accompanying guidance may be used for establishing target levels for all CCR constituents to be left in place after closure and post-closure of a CCR unit. The department must promulgate the rules by December 31, 2018, for CCR surface impoundments. The department is not authorized to promulgate rules requiring a construction or operating permit for CCR impoundment closure or corrective action, or post-closure ground water monitoring for certain CCR surface impoundments. No later than December 31, 2018, the department must amend or promulgate rules applicable to utility waste and CCR landfills.

The rules, including location restrictions and design standards cannot be more restrictive than federal regulations, with a few exceptions set out in the bill. Until the department has an approved and effective state program, the department is authorized to issue guidance or enter into enforceable agreements with site owners or operators to establish risk-based target levels using the MRBCA.

As of January 1, 2019, the department must require each owner, operator, or permittee of a CCR unit to pay a one-time enrollment fee of \$62,000, provided that the CCR unit is not a utility waste landfill, or \$48,000 per CCR unit, depending on when the CCR unit is closed, and an annual fee of \$15,000 per unit thereafter.

The bill specifies requirements for the submittal of the fees. All fees received under these provisions must be deposited into the "Coal Combustion Residuals Subaccount" of the Solid Waste Management Fund, and are dedicated solely to the department for conducting activities required by the bill.

The department may pursue penalties for failure to pay the required fees. However, the department shall not apply any standards that conflict with 40 CFR 257 to purchases of landfills adjoining municipal power stations prior to December 31, 2018, unless there is an imminent threat to human health and the environment.

It's a privilege working for you. Please call me anytime.

Sincerely,

A handwritten signature in black ink that reads "Steven Tilley". The signature is written in a cursive, slightly slanted style.

Steven Tilley