

SECOND REGULAR SESSION

SENATE COMMITTEE SUBSTITUTE FOR

SENATE BILL NO. 756

101ST GENERAL ASSEMBLY

3774S.08C

ADRIANE D. CROUSE, Secretary

AN ACT

To repeal sections 393.1400, 393.1640, 393.1655, and 393.1700, RSMo, and to enact in lieu thereof six new sections relating to public utilities.

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

Section A. Sections 393.1400, 393.1640, 393.1655, and
2 393.1700, RSMo, are repealed and six new sections enacted in
3 lieu thereof, to be known as sections 393.1275, 393.1400,
4 393.1640, 393.1655, 393.1656, and 393.1700, to read as follows:

393.1275. 1. The provisions of section 386.020
2 **defining words, phrases, and terms shall apply to and**
3 **determine the meaning of all such words, phrases, or terms**
4 **as used in this section.**

5 **2. Electrical corporations, gas corporations, sewer**
6 **corporations, and water corporations shall defer to a**
7 **regulatory asset or liability account any difference in**
8 **state or local property tax expenses actually incurred, and**
9 **those on which the revenue requirement used to set rates in**
10 **the corporation's most recently completed general rate**
11 **proceeding was based. The regulatory asset or liability**
12 **account balances shall be included in the revenue**
13 **requirement used to set rates through an amortization over a**
14 **reasonable period of time in such corporation's subsequent**
15 **general rate proceedings, without any offset. The**
16 **commission shall also adjust the rate base used to establish**

EXPLANATION-Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

17 **the revenue requirement of such corporation to reflect the**
18 **unamortized regulatory asset or liability account balances**
19 **in such general rate proceedings.**

393.1400. 1. For purposes of this section, the
2 following terms shall mean:

3 (1) "Commission", the public service commission;

4 (2) "Electrical corporation", the same as defined in
5 section 386.020, but shall not include an electrical
6 corporation as described in subsection 2 of section 393.110;

7 (3) "Qualifying electric plant", all rate-base
8 additions, except rate-base additions for new coal-fired
9 generating units, new nuclear generating units, new natural
10 gas units, or rate-base additions that increase revenues by
11 allowing service to new customer premises;

12 (4) "Rate-base cutoff date", the date rate-base
13 additions are accounted for in a general rate proceeding.
14 In the absence of a commission order that specifies the rate-
15 base cutoff date, such date as reflected in any jointly
16 proposed procedural schedule submitted by the parties in the
17 applicable general rate proceeding, or as otherwise agreed
18 to by such parties, shall be used;

19 (5) "Weighted average cost of capital", the return on
20 rate base used to determine the revenue requirement in the
21 electrical corporation's most recently completed general
22 rate proceeding; provided, that in the absence of a
23 commission determination of the return on rate base within
24 the three-year period prior to August 28, [2018] 2022, the
25 weighted average cost of capital shall be determined using
26 the electrical corporation's actual capital structure as of
27 December 31, [2017] 2021, excluding short-term debt, the
28 electrical corporation's actual cost of long-term debt and

29 preferred stock as of December 31, [2017] 2021, and a cost
30 of common equity of nine and one-half percent.

31 2. (1) Notwithstanding any other provision of this
32 chapter to the contrary, electrical corporations shall defer
33 to a regulatory asset eighty-five percent of all
34 depreciation expense and return associated with all
35 qualifying electric plant recorded to plant-in-service on
36 the utility's books commencing on or after August 28, 2018,
37 if the electrical corporation has made the election provided
38 for by subsection 5 of this section by that date, or on the
39 date such election is made if the election is made after
40 August 28, 2018. In each general rate proceeding concluded
41 after August 28, 2018, the balance of the regulatory asset
42 as of the rate-base cutoff date shall, **subject only to the**
43 **cap provided for in section 393.1655 or section 393.1656, as**
44 **applicable**, be included in the electrical corporation's rate
45 base without any offset, reduction, or adjustment based upon
46 consideration of any other factor, other than as provided
47 for in subdivision (2) of this subsection, with the
48 regulatory asset balance arising from deferrals associated
49 with qualifying electric plant placed in service after the
50 rate-base cutoff date to be included in rate base in the
51 next general rate proceeding. The expiration of this
52 section shall not affect the continued inclusion in rate
53 base and amortization of regulatory asset balances that
54 arose under this section prior to such expiration.

55 (2) The regulatory asset balances arising under this
56 section shall be adjusted to reflect any prudence
57 disallowances ordered by the commission. The provisions of
58 this section shall not be construed to affect existing law
59 respecting the burdens of production and persuasion in
60 general rate proceedings for rate-base additions.

61 (3) Parts of regulatory asset balances created under
62 this section that are not yet being recovered through rates
63 shall include carrying costs at the electrical corporation's
64 weighted average cost of capital, plus applicable federal,
65 state, and local income or excise taxes. Regulatory asset
66 balances arising under this section and included in rate
67 base shall be recovered in rates through a twenty-year
68 amortization beginning on the date new rates reflecting such
69 amortization take effect.

70 3. (1) Depreciation expense deferred under this
71 section shall account for all qualifying electric plant
72 placed into service less retirements of plant replaced by
73 such qualifying electric plant.

74 (2) Return deferred under this section shall be
75 determined using the weighted average cost of capital
76 applied to the change in plant-related rate base caused by
77 the qualifying electric plant, plus applicable federal,
78 state, and local income or excise taxes. In determining the
79 return deferred, the electrical corporation shall account
80 for changes in all plant-related accumulated deferred income
81 taxes and changes in accumulated depreciation, excluding
82 retirements.

83 4. Beginning February 28, 2019, and by each February
84 twenty-eighth thereafter while the electrical corporation is
85 allowed to make the deferrals provided for by subsection 2
86 of this section, electrical corporations that defer
87 depreciation expense and return authorized under this
88 section shall submit to the commission a five-year capital
89 investment plan setting forth the general categories of
90 capital expenditures the electrical corporation will pursue
91 in furtherance of replacing, modernizing, and securing its
92 infrastructure. The plan shall also include a specific

93 capital investment plan for the first year of the five-year
94 plan consistent with the level of specificity used for
95 annual capital budgeting purposes. For each of the first
96 five years that an electrical corporation is allowed to make
97 the deferrals provided for by subsection 2 of this section,
98 the purchase and installation of smart meters shall
99 constitute no more than six percent of the electrical
100 corporation's total capital expenditures during any given
101 year under the corporation's specific capital investment
102 plan. At least twenty-five percent of the cost of each
103 year's capital investment plan shall be comprised of grid
104 modernization projects, including but not limited to:

105 (1) Increased use of digital information and controls
106 technology to improve reliability, security, and efficiency
107 of the electric grid;

108 (2) Dynamic optimization of grid operations and
109 resources, with full cybersecurity;

110 (3) Deployment and integration of distributed
111 resources and generation, including renewable resources;

112 (4) Development and incorporation of demand response,
113 demand-side resources, and energy-efficiency resources;

114 (5) Deployment of smart technologies (real-time,
115 automated, interactive technologies that optimize the
116 physical operation of appliances and consumer devices) for
117 metering, communications, concerning grid operations and
118 status, and distribution automation;

119 (6) Integration of smart appliances and devices;

120 (7) Deployment and integration of advanced electricity
121 storage and peak-shaving technologies, including plug-in
122 electric and hybrid electric vehicles, and thermal storage
123 air conditioning;

124 (8) Provision of timely information and control
125 options to consumer;

126 (9) Development of standards for communication and
127 interoperability of appliances and equipment connected to
128 the electric grid, including the infrastructure serving the
129 grid; and

130 (10) Identification and lowering of unreasonable or
131 unnecessary barriers to adoption of smart grid technologies,
132 practices, and services.

133 Project specific information need not be included for the
134 five-year period covered by the plan. Within thirty days of
135 the filing of any capital investment plan or annual update
136 to an existing plan, the electrical corporation shall host a
137 public stakeholder meeting to answer questions and receive
138 feedback about the plan. After feedback is received, the
139 electrical corporation shall file a notice with the
140 commission of any modifications to the capital investment
141 plan it has accepted. Changes to the plan, its
142 implementation, or the level of investments made shall not
143 constitute evidence of imprudence of the investments made
144 under such plan. The submission of a capital investment
145 plan under this section shall not affect in any way the
146 commission's authority with respect to the grant or denial
147 of a certificate of convenience and necessity under section
148 393.170. By February twenty-eighth following each year in
149 which the electrical corporation submits a capital
150 investment plan, the electrical corporation shall submit a
151 report to the commission detailing actual capital
152 investments made the previous year.

153 5. This section shall only apply to any electrical
154 corporation that has filed a notice with the commission of

155 the electrical corporation's election to make the deferrals
156 for which this section provides. No electrical corporation
157 shall file a notice with the commission under this
158 subsection if such corporation has made an application under
159 subsection 3 of section 386.266, and such application has
160 been approved. An electrical corporation's election shall
161 allow it to make the deferrals provided for by subsection 2
162 of this section until December 31, [2023] 2033, unless the
163 electrical corporation requests and the commission approves
164 the continuation of such deferrals beyond that date and
165 approves continuation of the discounts authorized by section
166 393.1640 beyond that date as hereinafter provided. An
167 electrical corporation that wishes to continue to make the
168 deferrals provided for by subsection 2 of this section from
169 January 1, [2024] 2034, through December 31, [2028] 2038,
170 shall obtain the commission's approval to do so, shall be
171 subject to the [compound annual growth rate limitations]
172 **revenue requirement impact cap** set forth under section
173 [393.1655] 393.1656, and shall also obtain the commission's
174 approval to continue to provide the discounts authorized by
175 section 393.1640 in a commission order issued on or before
176 December 31, [2023] 2033. The commission shall have the
177 authority to grant or deny such approval based upon the
178 commission's evaluation of the costs and benefits of such
179 continuation to electrical corporations and consumers, but
180 shall not be authorized to condition such approval or
181 otherwise modify the deferrals authorized by subsection 2 of
182 this section, or the discounts authorized by section
183 393.1640. In deciding whether to extend the program for an
184 additional five years, the commission shall develop an
185 objective analytical framework to determine whether there is
186 a continuing need. The commission shall make a finding

187 about whether there is a continuing need after hearing.
188 Failure to obtain such commission approval shall not affect
189 deferrals made through December 31, [2023] **2033**, or the
190 regulatory and ratemaking treatment of the regulatory assets
191 arising from such deferrals as provided for by this section.

192 6. This section shall expire on December 31, [2028]
193 **2038**, except that the amortization of the regulatory asset
194 balances arising under this section shall continue to be
195 reflected in the electrical corporation's rates and
196 remaining regulatory asset balances shall be included in the
197 electrical corporation's rate base consistent with the
198 ratemaking treatment and amortization previously approved by
199 the commission pursuant to this section.

393.1640. 1. Subject to the limitations provided for
2 in subsection 2 of this section, and upon proper application
3 by an eligible customer prior to public announcement of a
4 growth project, a new or existing account meeting the
5 [following] criteria **in this subsection** shall [be
6 considered] **qualify** for [qualification for] **one of** the
7 [discount] **discounts** set forth in **subdivision (1) or (2) of**
8 this subsection [if]:

9 (1) [The customer adds incremental load, net of any
10 offsetting load reductions due to the termination of other
11 accounts of the customer or an affiliate of the customer
12 within twelve months prior to the commencement of service to
13 the new load, with average monthly demand that is reasonably
14 projected to be at least three hundred kilowatts with a load
15 factor of at least fifty-five percent within two years after
16 the date the application is submitted;

17 (2) The customer receives local, regional, or state
18 economic development incentives in conjunction with the
19 incremental load; and

20 (3) The customer meets the criteria set forth in the
21 electrical corporation's economic development rider tariff
22 sheet, as approved by the commission, that are not
23 inconsistent with the provisions of this subsection.] When
24 the new load is reasonably projected to be at least three
25 hundred kilowatts but not more than ten megawatts and have a
26 load factor of at least forty-five percent, the discount
27 shall equal thirty-five percent and shall apply for five
28 years, provided that if it is expected as of the date the
29 discount is to commence that a thirty-five percent discount
30 would produce revenues from the applicant's total bill that
31 would not exceed the electrical corporation's variable cost
32 to serve the applicant's account or accounts that are to
33 receive the discount, the discount shall be determined so
34 that the percentage discount, rounded to the nearest one
35 percent, is expected, as of the date the discount percentage
36 is determined, to provide revenues equal to one hundred
37 twenty percent of the electrical corporation's variable cost
38 to serve the applicant's account or accounts that are to
39 receive the discount;

40 (2) When the new load is reasonably projected to be
41 more than ten megawatts and have a load factor of at least
42 fifty-five percent, the discount percentage, rounded to the
43 nearest one percent, shall be determined such that the
44 applicant's total bill is expected, as of the date the
45 discount percentage is determined, to provide revenues equal
46 to one hundred twenty percent of the electrical
47 corporation's variable cost to serve the applicant's account
48 or accounts that are to receive the discount. Such discount
49 shall apply for ten years.

50 To obtain one of the discounts set forth in subdivision (1)
51 or (2) of this subsection, the customer's load shall be
52 incremental, net of any offsetting load reductions due to
53 the termination of other accounts of the customer or an
54 affiliate of the customer within twelve months prior to the
55 commencement of service to the new load, the customer shall
56 receive an economic development incentive from the local,
57 regional, state, or federal government, or from an agency or
58 program of any such government, in conjunction with the
59 incremental load, and the customer shall meet the criteria
60 set forth in the electrical corporation's economic
61 development rider tariff sheet, as approved by the
62 commission, that are not inconsistent with the provisions of
63 this subsection.

64 Unless otherwise provided for by the electrical
65 corporation's tariff, the applicable discount shall be a
66 percentage applied to all base-rate components of the bill.
67 [The percentage shall be fixed for each year of service
68 under the discount for a period of up to five years.
69 Subject to the remaining provisions of this subsection, the
70 average of the annual discount percentages shall equal forty
71 percent and shall not be less than thirty percent nor more
72 than fifty percent in any year.] The discount shall be
73 applied to such incremental load from the date when the
74 meter has been permanently set until the date that such
75 incremental load no longer meets the criteria required to
76 qualify for the discount, as determined under the provisions
77 of subsection 2 of this section. An eligible customer shall
78 also receive a ten percent discount of all base-rate
79 components of the bill applied to such incremental load for
80 an additional one year [after] period beyond the [initial]

81 **period during which the applicable** discount [period ends]
82 **under subdivision (1) or (2) of this subsection applies** if
83 the electrical corporation determines that the customer is
84 taking service from an under-utilized circuit. [In no event
85 shall a customer receive a discount under this subsection
86 after December 31, 2028.] The electrical corporation may
87 include in its tariff additional or alternative terms and
88 conditions to a customer's utilization of the discount,
89 subject to approval of such terms and conditions by the
90 commission. The customer, on forms supplied by the
91 electrical corporation, shall apply for the **applicable**
92 discount provided for by this subsection at least ninety
93 days prior to the date the customer requests that the
94 incremental demand receive **one of** the discounts provided for
95 by this subsection **and shall enter into a written agreement**
96 **with the electrical corporation reflecting the discount**
97 **percentages and other pertinent details.** If the incremental
98 demand is not separately metered, the electrical
99 corporation's determination of the incremental demand shall
100 control. **The electrical corporation shall verify the**
101 **customer's incremental demand annually to determine**
102 **continued qualification for the applicable discount.**
103 Notwithstanding the foregoing provisions of this subsection,
104 the cents-per-kilowatt-hour realization resulting from
105 application of any [such] discounted [rate] **rates** as
106 calculated shall be higher than the electrical corporation's
107 variable cost to serve such [accounts in aggregate]
108 **incremental demand** and the **applicable** discounted rate also
109 shall make a positive contribution to fixed costs associated
110 with [such] service **to such incremental demand.** If in a
111 subsequent general rate proceeding the commission determines
112 that application of [such] a discounted rate is not adequate

113 to cover the electrical corporation's variable cost to serve
114 **[such] the accounts in question** and provide a positive
115 contribution to fixed costs then the commission shall
116 increase the rate **for those accounts** prospectively to the
117 extent necessary to do so.

118 2. In each general rate proceeding concluded after
119 August 28, **[2018] 2022**, the **[reduced level of] difference in**
120 revenues **[arising from] generated by applying** the
121 **[application of] discounted rates** provided for by
122 **[subsection 1 of] this section and the revenues that would**
123 **have been generated without such discounts shall not be**
124 **imputed into the electrical corporation's revenue**
125 **requirement. Instead, such revenue requirement shall be set**
126 **using the revenues generated by such discounted rates and**
127 **the impact of the discounts provided for by** this section
128 shall be allocated to all the electrical corporation's
129 customer classes, including the classes with customers that
130 qualify for discounts under this section¹. **This increase**
131 **shall be implemented** through the application of a uniform
132 percentage adjustment to the revenue requirement
133 responsibility of all customer classes. To qualify for the
134 discounted rates provided for in this section, **[if**
135 **incremental load is separately metered,]** customers shall
136 meet the applicable criteria within twenty-four months
137 **[after the date the meter is permanently set] of initially**
138 **receiving discounts** based on metering data for calendar
139 months thirteen through twenty-four and annually
140 thereafter. If such data indicates that the customer did
141 not meet **[the criteria] both of the three hundred kilowatt**
142 **and forty-five or fifty-five percent load factor**
143 **requirements** for any applicable twelve-month period, it
144 shall thereafter no longer qualify for **[the] a** discounted

145 rate. **For customers receiving service under subdivision (2)**
146 **of subsection 1 of this section, if after the fourth year,**
147 **the demand has not exceeded ten thousand kilowatts during**
148 **any twelve-month period, the customer's qualification shall**
149 **revert to subdivision (1) of subsection 1 of this section.**

150 The provisions of this section do not supersede or limit the
151 ability of an electrical corporation to continue to utilize
152 economic development or retention tariffs previously
153 approved by the commission that are in effect on August 28,
154 [2018] 2022. If, however, a customer is receiving any
155 economic development or retention-related discounts as of
156 the date it would otherwise qualify for a discount provided
157 for by this section, the customer shall agree to relinquish
158 the prior discount concurrently with the date it begins to
159 receive a discount under this section; otherwise, the
160 customer shall not be eligible to receive any discount under
161 this section. Customer demand existing at the time the
162 customer begins to receive discounted rates under this
163 section shall not constitute incremental demand. The
164 discounted rates provided for by this section apply only to
165 base-rate components, with the charges or credits arising
166 from any rate adjustment mechanism authorized by law to be
167 applied to customers qualifying for discounted rates under
168 this section in the same manner as such rate adjustments
169 would apply in the absence of this section.

170 3. For purposes of this section, "electrical
171 corporation" shall mean the same as defined in section
172 386.020, but shall not include an electrical corporation as
173 described in subsection 2 of section 393.110.

174 4. This section shall expire on December 31, [2028]
175 2038, provided, that unless the electrical corporation has
176 timely obtained the order provided for by subsection 5 of

177 section 393.1400, the electrical [corporation's customers]
178 **corporation** shall **not**, after December 31, [2023] **2033**, [no
179 longer receive the discounts provided] **enter into new**
180 **contracts** under this section.

393.1655. 1. This section applies to an electrical
2 corporation that has elected to exercise any option under
3 section 393.1400 and that has more than two hundred thousand
4 Missouri retail customers in 2018, and shall continue to
5 apply to such electrical corporation until December 31,
6 2023[, if the commission has not issued an order approving
7 continuation of the deferrals authorized by subsection 2 of
8 section 393.1400, and continuation of the discounts
9 authorized by section 393.1640 as authorized by subsection 5
10 of section 393.1400 with respect to the electrical
11 corporation, or until December 31, 2028, if the commission
12 has issued such an order with respect to the electrical
13 corporation].

14 2. Notwithstanding any other provision of law and
15 except as otherwise provided for by this section, an
16 electrical corporation's base rates shall be held constant
17 for a period starting on the date new base rates were
18 established in the electrical corporation's last general
19 rate proceeding concluded prior to the date the electrical
20 corporation gave notice under subsection 5 of section
21 393.1400 and ending on the third anniversary of that date,
22 unless a force majeure event as determined by the commission
23 occurs. Whether a force majeure event has occurred shall be
24 subject to commission review and approval in a general rate
25 proceeding, and shall not preclude the commission from
26 reviewing the prudence of any revenue reductions or costs
27 incurred during any proceeding to set rates. This
28 subsection shall not affect the electrical corporation's

29 ability to adjust its nonbase rates during the three-year
30 period provided for in this subsection as authorized by its
31 commission-approved rate adjustment mechanisms arising under
32 section 386.266, 393.1030, or 393.1075, or as authorized by
33 any other rate adjustment mechanism authorized by law.

34 3. This subsection shall apply to electrical
35 corporations that have a general rate proceeding pending
36 before the commission as of the later of February 1, 2018,
37 or August 28, 2018. If the difference between (a) the
38 electrical corporation's average overall rate at any point
39 in time while this section applies to the electrical
40 corporation, and (b) the electrical corporation's average
41 overall rate as of the date new base rates are set in the
42 electrical corporation's most recent general rate proceeding
43 concluded prior to the date the electrical corporation gave
44 notice under section 393.1400, reflects a compound annual
45 growth rate of more than three percent, the electrical
46 corporation shall not recover any amount in excess of such
47 three percent as a performance penalty.

48 4. This section shall apply to electrical corporations
49 that do not have a general rate proceeding pending before
50 the commission as of the later of February 1, 2018, or
51 August 28, 2018. If the difference between (a) the
52 electrical corporation's average overall rate at any point
53 in time while this section applies to the electrical
54 corporation, and (b) the average of (i) the electrical
55 corporation's average overall rate as of the date new base
56 rates are set in the electrical corporation's most recent
57 general rate proceeding concluded prior to the date the
58 electrical corporation gave notice under section 393.1400,
59 and (ii) the electrical corporation's average overall rate
60 set under section 393.137, reflects a compound annual growth

61 rate of more than two and eighty-five hundredths percent,
62 the electrical corporation shall not recover any amount in
63 excess of such two and eighty-five hundredths percent as a
64 performance penalty.

65 5. If a change in any rates charged under a rate
66 adjustment mechanism approved by the commission under
67 sections 386.266 and 393.1030 would cause an electrical
68 corporation's average overall rate to exceed the compound
69 annual growth rate limitation set forth in subsection 3 or 4
70 of this section, the electrical corporation shall reduce the
71 rates charged under that rate adjustment mechanism in an
72 amount sufficient to ensure that the compound annual growth
73 rate limitation set forth in subsection 3 or 4 of this
74 section is not exceeded due to the application of the rate
75 charged under such mechanism and the performance penalties
76 under such subsections are not triggered. Sums not
77 recovered under any such mechanism because of any reduction
78 in rates under such a mechanism pursuant to this subsection
79 shall be deferred to and included in the regulatory asset
80 arising under section 393.1400 or, if applicable, under the
81 regulatory and ratemaking treatment ordered by the
82 commission under section 393.1400, and recovered through an
83 amortization in base rates in the same manner as deferrals
84 under that section or order are recovered in base rates.

85 6. If the difference between (a) the electrical
86 corporation's class average overall rate at any point in
87 time while this section applies to the electrical
88 corporation, and (b) the electrical corporation's class
89 average overall rate as of the date rates are set in the
90 electrical corporation's most recent general rate proceeding
91 concluded prior to the date the electrical corporation gave
92 notice under subsection 5 of section 393.1400, reflects a

93 compound annual growth rate of more than two percent for the
94 large power service rate class, the class average overall
95 rate shall increase by an amount so that the increase shall
96 equal a compound annual growth rate of two percent over such
97 period for such large power service rate class, with the
98 reduced revenues arising from limiting the large power
99 service class average overall rate increase to two percent
100 to be allocated to all the electrical corporation's other
101 customer classes through the application of a uniform
102 percentage adjustment to the revenue requirement
103 responsibility of all the other customer classes.

104 7. For purposes of this section, the following terms
105 shall mean:

106 (1) "Average base rate", a rate calculated by dividing
107 the total retail revenue requirement for all the electrical
108 corporation's rate classes by the total sales volumes stated
109 in kilowatt-hours for all such rate classes used to set
110 rates in the applicable general rate proceeding, exclusive
111 of gross receipts tax, sales tax, and other similar pass-
112 through taxes;

113 (2) "Average overall rate", a rate equal to the sum of
114 the average base rate and the average rider rate;

115 (3) "Average rider rate", a rate calculated by
116 dividing the total of the sums to be recovered from all
117 customer classes under the electrical corporation's rate
118 adjustment mechanisms in place other than a rate adjustment
119 mechanism under section 393.1075 by the total sales volumes
120 stated in kilowatt-hours for all of the electrical
121 corporation's rate classes used to set rates under such rate
122 adjustment mechanisms, exclusive of gross receipts tax,
123 sales tax, and other similar pass-through taxes;

124 (4) "Class average base rate", a rate calculated by
125 dividing the retail revenue requirement from the applicable
126 general rate proceeding that is allocated to the electrical
127 corporation's large power service rate class in that general
128 rate proceeding, by the total sales volumes stated in
129 kilowatt-hours for that class used to set rates in that
130 general rate proceeding, exclusive of gross receipts tax,
131 sales tax, and other similar pass-through taxes;

132 (5) "Class average overall rate", a rate equal to the
133 sum of the class average base rate and the class average
134 rider rate;

135 (6) "Class average rider rate", a rate calculated by
136 dividing the total of the sums allocated for recovery from
137 the large power service rate class under the electrical
138 corporation's rate adjustment mechanisms in place other than
139 a rate adjustment mechanism under section 393.1075 by the
140 total sales volumes stated in kilowatt-hours for that class
141 used to set rates under such rate adjustment mechanisms,
142 exclusive of gross receipts tax, sales tax, and other
143 similar pass-through taxes;

144 (7) "Force majeure event", an event or circumstance
145 that occurs as a result of a weather event, an act of God,
146 war, terrorism, or other event which threatens the financial
147 integrity of the electrical corporation that causes a
148 reduction in revenues, an increase in the cost of providing
149 electrical service, or some combination thereof, and the
150 event has an associated fiscal impact on the electrical
151 corporation's operations equal to three percent or greater
152 of the total revenue requirement established in the
153 electrical corporation's last general rate proceeding after
154 taking into account the financial impact specified in
155 section 393.137. Any force majeure event shall be subject

156 to commission review and approval, and shall not preclude
157 the commission from reviewing the prudence of any revenue
158 reductions or costs incurred during any proceeding to set
159 rates;

160 (8) "Large power service rate class", the rate class
161 of each corporation that requires the highest minimum
162 monthly billing demand of all of the electrical
163 corporation's rate classes in order to qualify as a member
164 of such rate class, and that applies to qualifying customers
165 only if they utilize the electrical corporation's
166 distribution system.

393.1656. 1. This section applies beginning January
2 **1, 2024, to an electrical corporation that has elected to**
3 **exercise any option under section 393.1400 and shall**
4 **continue to apply to such electrical corporations until**
5 **December 31, 2033, if the commission has not issued an order**
6 **approving continuation of the deferrals authorized by**
7 **subsection 2 of section 393.1400, and continuation of the**
8 **discounts authorized by section 393.1640 as authorized by**
9 **subsection 5 of section 393.1400 with respect to the**
10 **electrical corporation, or until December 31, 2038, if the**
11 **commission has issued such an order with respect to the**
12 **electrical corporation.**

13 **2. That part of the electrical corporation's retail**
14 **revenue requirement used to set the electrical corporation's**
15 **base rates in each of the electrical corporation's general**
16 **rate proceedings that are concluded on or after August 31,**
17 **2023, that consists of revenue requirement arising from**
18 **inclusion in rate base of the section 393.1400 regulatory**
19 **asset balance shall not exceed the revenue requirement**
20 **impact cap. If inclusion in rate base of the full balance**
21 **of the subject section 393.1400 regulatory asset would cause**

22 the electrical corporation to exceed the revenue requirement
23 impact cap, that part of the balance necessary to prevent
24 inclusion of the full balance from causing an exceedance of
25 the revenue requirement impact cap shall not be included in
26 rate base and the section 393.1400 regulatory asset balance
27 shall be reduced accordingly as a penalty.

28 3. For purposes of this section, the following terms
29 shall mean:

30 (1) "Commission", the public service commission;

31 (2) "Electrical corporation", the same as defined in
32 section 386.020, but shall not include an electrical
33 corporation as described in subsection 2 of section 393.110;

34 (3) "Rate-base cutoff date", the date rate-base
35 additions are accounted for in a general rate proceeding.

36 In the absence of a commission order that specifies the rate-
37 base cutoff date, such date as reflected in any jointly
38 proposed procedural schedule submitted by the parties in the
39 applicable general rate proceeding, or as otherwise agreed
40 to by such parties, shall be used;

41 (4) "Revenue requirement impact cap", the product of
42 (i) one-twelfth of two and one-half percent, multiplied by
43 (ii) the number of months that have elapsed from the
44 effective date of new base rates in the electrical
45 corporation's most recently completed general rate
46 proceeding to the effective date of new base rates in the
47 general rate proceeding in which the cap is being applied,
48 with that product to be multiplied by the retail revenue
49 requirement used to set base rates in the electrical
50 corporation's most recently completed general rate
51 proceeding concluded prior to the general rate proceeding in
52 which the cap is being applied;

53 (5) "Subject section 393.1400 regulatory asset",
54 deferrals under section 393.1400 from the rate-base cutoff
55 date in the electrical corporation's prior general rate
56 proceeding to the rate-base cutoff date in the current
57 general rate proceeding in which the cap reflected in
58 subsection 2 of this section is being applied.

393.1700. 1. For purposes of sections 393.1700 to
2 393.1715, the following terms shall mean:

3 (1) "Ancillary agreement", a bond, insurance policy,
4 letter of credit, reserve account, surety bond, interest
5 rate lock or swap arrangement, hedging arrangement,
6 liquidity or credit support arrangement, or other financial
7 arrangement entered into in connection with securitized
8 utility tariff bonds;

9 (2) "Assignee", a legally recognized entity to which
10 an electrical corporation assigns, sells, or transfers,
11 other than as security, all or a portion of its interest in
12 or right to securitized utility tariff property. The term
13 includes a corporation, limited liability company, general
14 partnership or limited partnership, public authority, trust,
15 financing entity, or any entity to which an assignee
16 assigns, sells, or transfers, other than as security, its
17 interest in or right to securitized utility tariff property;

18 (3) "Bondholder", a person who holds a securitized
19 utility tariff bond;

20 (4) "Code", the uniform commercial code, chapter 400;

21 (5) "Commission", the Missouri public service
22 commission;

23 (6) "Electrical corporation", the same as defined in
24 section 386.020, but shall not include an electrical
25 corporation as described in subsection 2 of section 393.110;

26 (7) "Energy transition costs" include all of the
27 following:

28 (a) Pretax costs with respect to a retired or
29 abandoned or to be retired or abandoned electric generating
30 facility that is the subject of a petition for a financing
31 order filed under this section where such early retirement
32 or abandonment is deemed reasonable and prudent by the
33 commission through a final order issued by the commission,
34 include, but are not limited to, the undepreciated
35 investment in the retired or abandoned or to be retired or
36 abandoned electric generating facility and any facilities
37 ancillary thereto or used in conjunction therewith, costs of
38 decommissioning and restoring the site of the electric
39 generating facility, other applicable capital and operating
40 costs, accrued carrying charges, and deferred expenses, with
41 the foregoing to be reduced by applicable tax benefits of
42 accumulated and excess deferred income taxes, insurance,
43 scrap and salvage proceeds, and may include the cost of
44 retiring any existing indebtedness, fees, costs, and
45 expenses to modify existing debt agreements or for waivers
46 or consents related to existing debt agreements;

47 (b) Pretax costs that an electrical corporation has
48 previously incurred related to the retirement or abandonment
49 of such an electric generating facility occurring before
50 August 28, 2021;

51 (8) "Financing costs" includes all of the following:

52 (a) Interest and acquisition, defeasance, or
53 redemption premiums payable on securitized utility tariff
54 bonds;

55 (b) Any payment required under an ancillary agreement
56 and any amount required to fund or replenish a reserve
57 account or other accounts established under the terms of any

58 indenture, ancillary agreement, or other financing documents
59 pertaining to securitized utility tariff bonds;

60 (c) Any other cost related to issuing, supporting,
61 repaying, refunding, and servicing securitized utility
62 tariff bonds, including servicing fees, accounting and
63 auditing fees, trustee fees, legal fees, consulting fees,
64 structuring adviser fees, administrative fees, placement and
65 underwriting fees, independent director and manager fees,
66 capitalized interest, rating agency fees, stock exchange
67 listing and compliance fees, security registration fees,
68 filing fees, information technology programming costs, and
69 any other costs necessary to otherwise ensure the timely
70 payment of securitized utility tariff bonds or other amounts
71 or charges payable in connection with the bonds, including
72 costs related to obtaining the financing order;

73 (d) Any taxes and license fees or other fees imposed
74 on the revenues generated from the collection of the
75 securitized utility tariff charge or otherwise resulting
76 from the collection of securitized utility tariff charges,
77 in any such case whether paid, payable, or accrued;

78 (e) Any state and local taxes, franchise, gross
79 receipts, and other taxes or similar charges, including
80 commission assessment fees, whether paid, payable, or
81 accrued;

82 (f) Any costs associated with performance of the
83 commission's responsibilities under this section in
84 connection with approving, approving subject to conditions,
85 or rejecting a petition for a financing order, and in
86 performing its duties in connection with the issuance advice
87 letter process, including costs to retain counsel, one or
88 more financial advisors, or other consultants as deemed

89 appropriate by the commission and paid pursuant to this
90 section;

91 (9) "Financing order", an order from the commission
92 that authorizes the issuance of securitized utility tariff
93 bonds; the imposition, collection, and periodic adjustments
94 of a securitized utility tariff charge; the creation of
95 securitized utility tariff property; and the sale,
96 assignment, or transfer of securitized utility tariff
97 property to an assignee;

98 (10) "Financing party", bondholders and trustees,
99 collateral agents, any party under an ancillary agreement,
100 or any other person acting for the benefit of bondholders;

101 (11) "Financing statement", the same as defined in
102 article 9 of the code;

103 (12) "Pledgee", a financing party to which an
104 electrical corporation or its successors or assignees
105 mortgages, negotiates, pledges, or creates a security
106 interest or lien on all or any portion of its interest in or
107 right to securitized utility tariff property;

108 (13) "Qualified extraordinary costs", costs incurred
109 prudently before, on, or after August 28, 2021, of an
110 extraordinary nature which would cause extreme customer rate
111 impacts if reflected in retail customer rates recovered
112 through customary ratemaking, such as but not limited to
113 those related to purchases of fuel or power, inclusive of
114 carrying charges, during anomalous weather events;

115 (14) "Rate base cutoff date", the same as defined in
116 subdivision (4) of subsection 1 of section 393.1400 as such
117 term existed on August 28, 2021;

118 (15) "Securitized utility tariff bonds", bonds,
119 debentures, notes, certificates of participation,
120 certificates of beneficial interest, certificates of

121 ownership, or other evidences of indebtedness or ownership
122 that are issued by an electrical corporation or an assignee
123 pursuant to a financing order, the proceeds of which are
124 used directly or indirectly to recover, finance, or
125 refinance commission-approved securitized utility tariff
126 costs and financing costs, and that are secured by or
127 payable from securitized utility tariff property. If
128 certificates of participation or ownership are issued,
129 references in this section to principal, interest, or
130 premium shall be construed to refer to comparable amounts
131 under those certificates;

132 (16) "Securitized utility tariff charge", the amounts
133 authorized by the commission to repay, finance, or refinance
134 securitized utility tariff costs and financing costs and
135 that are, except as otherwise provided for in this section,
136 nonbypassable charges imposed on and part of all retail
137 customer bills, collected by an electrical corporation or
138 its successors or assignees, or a collection agent, in full,
139 separate and apart from the electrical corporation's base
140 rates, and paid by all existing or future retail customers
141 receiving electrical service from the electrical corporation
142 or its successors or assignees under commission-approved
143 rate schedules, except for customers receiving electrical
144 service under special contracts as of August 28, 2021, even
145 if a retail customer elects to purchase electricity from an
146 alternative electricity supplier following a fundamental
147 change in regulation of public utilities in this state;

148 (17) "Securitized utility tariff costs", either energy
149 transition costs or qualified extraordinary costs as the
150 case may be;

151 (18) "Securitized utility tariff property", all of the
152 following:

153 (a) All rights and interests of an electrical
154 corporation or successor or assignee of the electrical
155 corporation under a financing order, including the right to
156 impose, bill, charge, collect, and receive securitized
157 utility tariff charges authorized under the financing order
158 and to obtain periodic adjustments to such charges as
159 provided in the financing order;

160 (b) All revenues, collections, claims, rights to
161 payments, payments, money, or proceeds arising from the
162 rights and interests specified in the financing order,
163 regardless of whether such revenues, collections, claims,
164 rights to payment, payments, money, or proceeds are imposed,
165 billed, received, collected, or maintained together with or
166 commingled with other revenues, collections, rights to
167 payment, payments, money, or proceeds;

168 (19) "Special contract", electrical service provided
169 under the terms of a special incremental load rate schedule
170 at a fixed price rate approved by the commission.

171 2. (1) An electrical corporation may petition the
172 commission for a financing order to finance energy
173 transition costs through an issuance of securitized utility
174 tariff bonds. The petition shall include all of the
175 following:

176 (a) A description of the electric generating facility
177 or facilities that the electrical corporation has retired or
178 abandoned, or proposes to retire or abandon, prior to the
179 date that all undepreciated investment relating thereto has
180 been recovered through rates and the reasons for undertaking
181 such early retirement or abandonment, or if the electrical
182 corporation is subject to a separate commission order or
183 proceeding relating to such retirement or abandonment as

184 contemplated by subdivision (2) of this subsection, and a
185 description of the order or other proceeding;

186 (b) The energy transition costs;

187 (c) An indicator of whether the electrical corporation
188 proposes to finance all or a portion of the energy
189 transition costs using securitized utility tariff bonds. If
190 the electrical corporation proposes to finance a portion of
191 the costs, the electrical corporation shall identify the
192 specific portion in the petition. By electing not to
193 finance all or any portion of such energy transition costs
194 using securitized utility tariff bonds, an electrical
195 corporation shall not be deemed to waive its right to
196 recover such costs pursuant to a separate proceeding with
197 the commission;

198 (d) An estimate of the financing costs related to the
199 securitized utility tariff bonds;

200 (e) An estimate of the securitized utility tariff
201 charges necessary to recover the securitized utility tariff
202 costs and financing costs and the period for recovery of
203 such costs;

204 (f) A comparison between the net present value of the
205 costs to customers that are estimated to result from the
206 issuance of securitized utility tariff bonds and the costs
207 that would result from the application of the traditional
208 method of financing and recovering the undepreciated
209 investment of facilities that may become securitized utility
210 tariff costs from customers. The comparison should
211 demonstrate that the issuance of securitized utility tariff
212 bonds and the imposition of securitized utility tariff
213 charges are expected to provide quantifiable net present
214 value benefits to customers;

215 (g) A proposed future ratemaking process to reconcile
216 any differences between securitized utility tariff costs
217 financed by securitized utility tariff bonds and the final
218 securitized costs incurred by the electrical corporation or
219 assignee provided that any such reconciliation shall not
220 affect the amount of securitized utility tariff bonds or the
221 associated securitized utility tariff charges paid by
222 customers; and

223 (h) Direct testimony supporting the petition.

224 (2) An electrical corporation may petition the
225 commission for a financing order to finance qualified
226 extraordinary costs. The petition shall include all of the
227 following:

228 (a) A description of the qualified extraordinary
229 costs, including their magnitude, the reasons those costs
230 were incurred by the electrical corporation and the retail
231 customer rate impact that would result from customary
232 ratemaking treatment of such costs;

233 (b) An indicator of whether the electrical corporation
234 proposes to finance all or a portion of the qualified
235 extraordinary costs using securitized utility tariff bonds.
236 If the electrical corporation proposes to finance a portion
237 of the costs, the electrical corporation shall identify the
238 specific portion in the petition. By electing not to
239 finance all or any portion of such qualified extraordinary
240 costs using securitized utility tariff bonds, an electrical
241 corporation shall not be deemed to waive its right to
242 reflect such costs in its retail rates pursuant to a
243 separate proceeding with the commission;

244 (c) An estimate of the financing costs related to the
245 securitized utility tariff bonds;

246 (d) An estimate of the securitized utility tariff
247 charges necessary to recover the qualified extraordinary
248 costs and financing costs and the period for recovery of
249 such costs;

250 (e) A comparison between the net present value of the
251 costs to customers that are estimated to result from the
252 issuance of securitized utility tariff bonds and the costs
253 that would result from the application of the customary
254 method of financing and reflecting the qualified
255 extraordinary costs in retail customer rates. The
256 comparison should demonstrate that the issuance of
257 securitized utility tariff bonds and the imposition of
258 securitized utility tariff charges are expected to provide
259 quantifiable net present value benefits to retail customers;

260 (f) A proposed future ratemaking process to reconcile
261 any differences between securitized utility tariff costs
262 financed by securitized utility tariff bonds and the final
263 securitized costs incurred by the electrical corporation or
264 assignee provided that any such reconciliation shall not
265 affect the amount of securitized utility tariff bonds or the
266 associated securitized utility tariff charges paid by
267 customers; and

268 (g) Direct testimony supporting the petition.

269 (3) (a) Proceedings on a petition submitted pursuant
270 to this subsection begin with the petition by an electrical
271 corporation and shall be disposed of in accordance with the
272 requirements of this section and the rules of the
273 commission, except as follows:

274 a. The commission shall establish a procedural
275 schedule that permits a commission decision no later than
276 two hundred fifteen days after the date the petition is
277 filed;

278 b. No later than two hundred fifteen days after the
279 date the petition is filed, the commission shall issue a
280 financing order approving the petition, an order approving
281 the petition subject to conditions, or an order rejecting
282 the petition; provided, however, that the electrical
283 corporation shall provide notice of intent to file a
284 petition for a financing order to the commission no less
285 than sixty days in advance of such filing;

286 c. Judicial review of a financing order may be had
287 only in accordance with sections 386.500 and 386.510.

288 (b) In performing its responsibilities under this
289 section in approving, approving subject to conditions, or
290 rejecting a petition for a financing order, the commission
291 may retain counsel, one or more financial advisors, or other
292 consultants as it deems appropriate. Such outside counsel,
293 advisor or advisors, or consultants shall owe a duty of
294 loyalty solely to the commission and shall have no interest
295 in the proposed securitized utility tariff bonds. The costs
296 associated with any such engagements shall be paid by the
297 petitioning corporation and shall be included as financed
298 costs in the securitized utility tariff charge and shall not
299 be an obligation of the state and shall be assigned solely
300 to the subject transaction. **The commission may directly**
301 **contract counsel, financial advisors, or other consultants**
302 **as necessary for effectuating the purposes of this section.**
303 **Such contracting procedures shall not be subject to the**
304 **provisions of chapter 34.**

305 (c) A financing order issued by the commission, after
306 a hearing, to an electrical corporation shall include all of
307 the following elements:

308 a. The amount of securitized utility tariff costs to
309 be financed using securitized utility tariff bonds and a

310 finding that recovery of such costs is just and reasonable
311 and in the public interest. The commission shall describe
312 and estimate the amount of financing costs that may be
313 recovered through securitized utility tariff charges and
314 specify the period over which securitized utility tariff
315 costs and financing costs may be recovered;

316 b. A finding that the proposed issuance of securitized
317 utility tariff bonds and the imposition and collection of a
318 securitized utility tariff charge are just and reasonable
319 and in the public interest and are expected to provide
320 quantifiable net present value benefits to customers as
321 compared to recovery of the components of securitized
322 utility tariff costs that would have been incurred absent
323 the issuance of securitized utility tariff bonds.

324 Notwithstanding any provisions of this section to the
325 contrary, in considering whether to find the proposed
326 issuance of securitized utility tariff bonds and the
327 imposition and collection of a securitized utility tariff
328 charge are just and reasonable and in the public interest,
329 the commission may consider previous instances where it has
330 issued financing orders to the petitioning electrical
331 corporation and such electrical corporation has previously
332 issued securitized utility tariff bonds;

333 c. A finding that the proposed structuring and pricing
334 of the securitized utility tariff bonds are reasonably
335 expected to result in the lowest securitized utility tariff
336 charges consistent with market conditions at the time the
337 securitized utility tariff bonds are priced and the terms of
338 the financing order;

339 d. A requirement that, for so long as the securitized
340 utility tariff bonds are outstanding and until all financing
341 costs have been paid in full, the imposition and collection

342 of securitized utility tariff charges authorized under a
343 financing order shall be nonbypassable and paid by all
344 existing and future retail customers receiving electrical
345 service from the electrical corporation or its successors or
346 assignees under commission-approved rate schedules except
347 for customers receiving electrical service under special
348 contracts on August 28, 2021, even if a retail customer
349 elects to purchase electricity from an alternative electric
350 supplier following a fundamental change in regulation of
351 public utilities in this state;

352 e. A formula-based true-up mechanism for making, at
353 least annually, expeditious periodic adjustments in the
354 securitized utility tariff charges that customers are
355 required to pay pursuant to the financing order and for
356 making any adjustments that are necessary to correct for any
357 overcollection or undercollection of the charges or to
358 otherwise ensure the timely payment of securitized utility
359 tariff bonds and financing costs and other required amounts
360 and charges payable under the securitized utility tariff
361 bonds;

362 f. The securitized utility tariff property that is, or
363 shall be, created in favor of an electrical corporation or
364 its successors or assignees and that shall be used to pay or
365 secure securitized utility tariff bonds and approved
366 financing costs;

367 g. The degree of flexibility to be afforded to the
368 electrical corporation in establishing the terms and
369 conditions of the securitized utility tariff bonds,
370 including, but not limited to, repayment schedules, expected
371 interest rates, and other financing costs;

372 h. How securitized utility tariff charges will be
373 allocated among retail customer classes. The initial

374 allocation shall remain in effect until the electrical
375 corporation completes a general rate proceeding, and once
376 the commission's order from that general rate proceeding
377 becomes final, all subsequent applications of an adjustment
378 mechanism regarding securitized utility tariff charges shall
379 incorporate changes in the allocation of costs to customers
380 as detailed in the commission's order from the electrical
381 corporation's most recent general rate proceeding;

382 i. A requirement that, after the final terms of an
383 issuance of securitized utility tariff bonds have been
384 established and before the issuance of securitized utility
385 tariff bonds, the electrical corporation determines the
386 resulting initial securitized utility tariff charge in
387 accordance with the financing order, and that such initial
388 securitized utility tariff charge be final and effective
389 upon the issuance of such securitized utility tariff bonds
390 with such charge to be reflected on a compliance tariff
391 sheet bearing such charge;

392 j. A method of tracing funds collected as securitized
393 utility tariff charges, or other proceeds of securitized
394 utility tariff property, determining that such method shall
395 be deemed the method of tracing such funds and determining
396 the identifiable cash proceeds of any securitized utility
397 tariff property subject to a financing order under
398 applicable law;

399 k. A statement specifying a future ratemaking process
400 to reconcile any differences between the actual securitized
401 utility tariff costs financed by securitized utility tariff
402 bonds and the final securitized utility tariff costs
403 incurred by the electrical corporation or assignee provided
404 that any such reconciliation shall not affect the amount of

405 securitized utility tariff bonds or the associated
406 securitized utility tariff charges paid by customers;

407 1. A procedure that shall allow the electrical
408 corporation to earn a return, at the cost of capital
409 authorized from time to time by the commission in the
410 electrical corporation's rate proceedings, on any moneys
411 advanced by the electrical corporation to fund reserves, if
412 any, or capital accounts established under the terms of any
413 indenture, ancillary agreement, or other financing documents
414 pertaining to the securitized utility tariff bonds;

415 m. In a financing order granting authorization to
416 securitize energy transition costs or in a financing order
417 granting authorization to securitize qualified extraordinary
418 costs that include retired or abandoned facility costs, a
419 procedure for the treatment of accumulated deferred income
420 taxes and excess deferred income taxes in connection with
421 the retired or abandoned or to be retired or abandoned
422 electric generating facility, or in connection with retired
423 or abandoned facilities included in qualified extraordinary
424 costs. The accumulated deferred income taxes, including
425 excess deferred income taxes, shall be excluded from rate
426 base in future general rate cases and the net tax benefits
427 relating to amounts that will be recovered through the
428 issuance of securitized utility tariff bonds shall be
429 credited to retail customers by reducing the amount of such
430 securitized utility tariff bonds that would otherwise be
431 issued. The customer credit shall include the net present
432 value of the tax benefits, calculated using a discount rate
433 equal to the expected interest rate of the securitized
434 utility tariff bonds, for the estimated accumulated and
435 excess deferred income taxes at the time of securitization
436 including timing differences created by the issuance of

437 securitized utility tariff bonds amortized over the period
438 of the bonds multiplied by the expected interest rate on
439 such securitized utility tariff bonds;

440 n. An outside date, which shall not be earlier than
441 one year after the date the financing order is no longer
442 subject to appeal, when the authority to issue securitized
443 utility tariff bonds granted in such financing order shall
444 expire; and

445 o. Include any other conditions that the commission
446 considers appropriate and that are not inconsistent with
447 this section.

448 (d) A financing order issued to an electrical
449 corporation may provide that creation of the electrical
450 corporation's securitized utility tariff property is
451 conditioned upon, and simultaneous with, the sale or other
452 transfer of the securitized utility tariff property to an
453 assignee and the pledge of the securitized utility tariff
454 property to secure securitized utility tariff bonds.

455 (e) If the commission issues a financing order, the
456 electrical corporation shall file with the commission at
457 least annually a petition or a letter applying the formula-
458 based true-up mechanism and, based on estimates of
459 consumption for each rate class and other mathematical
460 factors, requesting administrative approval to make the
461 applicable adjustments. The review of the filing shall be
462 limited to determining whether there are any mathematical or
463 clerical errors in the application of the formula-based true-
464 up mechanism relating to the appropriate amount of any
465 overcollection or undercollection of securitized utility
466 tariff charges and the amount of an adjustment. The
467 adjustments shall ensure the recovery of revenues sufficient
468 to provide for the payment of principal, interest,

469 acquisition, defeasance, financing costs, or redemption
470 premium and other fees, costs, and charges in respect of
471 securitized utility tariff bonds approved under the
472 financing order. Within thirty days after receiving an
473 electrical corporation's request pursuant to this paragraph,
474 the commission shall either approve the request or inform
475 the electrical corporation of any mathematical or clerical
476 errors in its calculation. If the commission informs the
477 electrical corporation of mathematical or clerical errors in
478 its calculation, the electrical corporation shall correct
479 its error and refile its request. The time frames
480 previously described in this paragraph shall apply to a
481 refiled request.

482 (f) At the time of any transfer of securitized utility
483 tariff property to an assignee or the issuance of
484 securitized utility tariff bonds authorized thereby,
485 whichever is earlier, a financing order is irrevocable and,
486 except for changes made pursuant to the formula-based true-
487 up mechanism authorized in this section, the commission may
488 not amend, modify, or terminate the financing order by any
489 subsequent action or reduce, impair, postpone, terminate, or
490 otherwise adjust securitized utility tariff charges approved
491 in the financing order. After the issuance of a financing
492 order, the electrical corporation retains sole discretion
493 regarding whether to assign, sell, or otherwise transfer
494 securitized utility tariff property or to cause securitized
495 utility tariff bonds to be issued, including the right to
496 defer or postpone such assignment, sale, transfer, or
497 issuance.

498 (g) The commission, in a financing order and subject
499 to the issuance advice letter process under paragraph (h) of
500 this subdivision, shall specify the degree of flexibility to

501 be afforded the electrical corporation in establishing the
502 terms and conditions for the securitized utility tariff
503 bonds to accommodate changes in market conditions, including
504 repayment schedules, interest rates, financing costs,
505 collateral requirements, required debt service and other
506 reserves and the ability of the electrical corporation, at
507 its option, to effect a series of issuances of securitized
508 utility tariff bonds and correlated assignments, sales,
509 pledges, or other transfers of securitized utility tariff
510 property. Any changes made under this paragraph to terms
511 and conditions for the securitized utility tariff bonds
512 shall be in conformance with the financing order.

513 (h) As the actual structure and pricing of the
514 securitized utility tariff bonds will be unknown at the time
515 the financing order is issued, prior to the issuance of each
516 series of bonds, an issuance advice letter shall be provided
517 to the commission by the electrical corporation following
518 the determination of the final terms of such series of bonds
519 no later than one day after the pricing of the securitized
520 utility tariff bonds. The commission shall have the
521 authority to designate a representative or representatives
522 from commission staff, who may be advised by a financial
523 advisor or advisors contracted with the commission, to
524 provide input to the electrical corporation and collaborate
525 with the electrical corporation in all facets of the process
526 undertaken by the electrical corporation to place the
527 securitized utility tariff bonds to market so the
528 commission's representative or representatives can provide
529 the commission with an opinion on the reasonableness of the
530 pricing, terms, and conditions of the securitized utility
531 tariff bonds on an expedited basis. Neither the designated
532 representative or representatives from the commission staff

533 nor one or more financial advisors advising commission staff
534 shall have authority to direct how the electrical
535 corporation places the bonds to market although they shall
536 be permitted to attend all meetings convened by the
537 electrical corporation to address placement of the bonds to
538 market. The form of such issuance advice letter shall be
539 included in the financing order and shall indicate the final
540 structure of the securitized utility tariff bonds and
541 provide the best available estimate of total ongoing
542 financing costs. The issuance advice letter shall report
543 the initial securitized utility tariff charges and other
544 information specific to the securitized utility tariff bonds
545 to be issued, as the commission may require. Unless an
546 earlier date is specified in the financing order, the
547 electrical corporation may proceed with the issuance of the
548 securitized utility tariff bonds unless, prior to noon on
549 the fourth business day after the commission receives the
550 issuance advice letter, the commission issues a disapproval
551 letter directing that the bonds as proposed shall not be
552 issued and the basis for that disapproval. The financing
553 order may provide such additional provisions relating to the
554 issuance advice letter process as the commission considers
555 appropriate and as are not inconsistent with this section.

556 (4) (a) In performing the responsibilities of this
557 section in connection with the issuance of a financing
558 order, approving the petition, an order approving the
559 petition subject to conditions, or an order rejecting the
560 petition, the commission shall undertake due diligence as it
561 deems appropriate prior to the issuance of the order
562 regarding the petition pursuant to which the commission may
563 request additional information from the electrical
564 corporation and may engage one or more financial advisors,

565 one or more consultants, and counsel as the commission deems
566 necessary. Any financial advisor or advisors, counsel, and
567 consultants engaged by the commission shall have a fiduciary
568 duty with respect to the proposed issuance of securitized
569 utility bonds solely to the commission. All expenses
570 associated with such services shall be included as part of
571 the financing costs of the securitized utility tariff bonds
572 and shall be included in the securitized utility tariff
573 charge.

574 (b) If an electrical corporation's petition for a
575 financing order is denied or withdrawn, or for any reason
576 securitized utility tariff bonds are not issued, any costs
577 of retaining one or more financial advisors, one or more
578 consultants, and counsel on behalf of the commission shall
579 be paid by the petitioning electrical corporation and shall
580 be eligible for full recovery, including carrying costs, if
581 approved by the commission in the electrical corporation's
582 future rates.

583 (5) At the request of an electrical corporation, the
584 commission may commence a proceeding and issue a subsequent
585 financing order that provides for refinancing, retiring, or
586 refunding securitized utility tariff bonds issued pursuant
587 to the original financing order if the commission finds that
588 the subsequent financing order satisfies all of the criteria
589 specified in this section for a financing order. Effective
590 upon retirement of the refunded securitized utility tariff
591 bonds and the issuance of new securitized utility tariff
592 bonds, the commission shall adjust the related securitized
593 utility tariff charges accordingly.

594 (6) (a) A financing order remains in effect and
595 securitized utility tariff property under the financing
596 order continues to exist until securitized utility tariff

597 bonds issued pursuant to the financing order have been paid
598 in full or defeased and, in each case, all commission-
599 approved financing costs of such securitized utility tariff
600 bonds have been recovered in full.

601 (b) A financing order issued to an electrical
602 corporation remains in effect and unabated notwithstanding
603 the reorganization, bankruptcy, or other insolvency
604 proceedings, merger, or sale of the electrical corporation
605 or its successors or assignees.

606 3. (1) The commission may not, in exercising its
607 powers and carrying out its duties regarding any matter
608 within its authority, consider the securitized utility
609 tariff bonds issued pursuant to a financing order to be the
610 debt of the electrical corporation other than for federal
611 and state income tax purposes, consider the securitized
612 utility tariff charges paid under the financing order to be
613 the revenue of the electrical corporation for any purpose,
614 consider the securitized utility tariff costs or financing
615 costs specified in the financing order to be the costs of
616 the electrical corporation, nor may the commission determine
617 any action taken by an electrical corporation which is
618 consistent with the financing order to be unjust or
619 unreasonable, and section 386.300 shall not apply to the
620 issuance of securitized utility tariff bonds.

621 (2) Securitized utility tariff charges shall not be
622 utilized or accounted for in determining the electrical
623 corporation's average overall rate, as defined in section
624 393.1655 and as used to determine the maximum retail rate
625 impact limitations provided for by subsections 3 and 4 of
626 section 393.1655.

627 (3) No electrical corporation is required to file a
628 petition for a financing order under this section or

629 otherwise utilize this section. An electrical corporation's
630 decision not to file a petition for a financing order under
631 this section shall not be admissible in any commission
632 proceeding nor shall it be otherwise utilized or relied on
633 by the commission in any proceeding respecting the
634 electrical corporation's rates or its accounting, including,
635 without limitation, any general rate proceeding, fuel
636 adjustment clause docket, or proceedings relating to
637 accounting authority, whether initiated by the electrical
638 corporation or otherwise. The commission may not order or
639 otherwise directly or indirectly require an electrical
640 corporation to use securitized utility tariff bonds to
641 recover securitized utility tariff costs or to finance any
642 project, addition, plant, facility, extension, capital
643 improvement, equipment, or any other expenditure.

644 (4) The commission may not refuse to allow an
645 electrical corporation to recover securitized utility tariff
646 costs in an otherwise permissible fashion, or refuse or
647 condition authorization or approval of the issuance and sale
648 by an electrical corporation of securities or the assumption
649 by the electrical corporation of liabilities or obligations,
650 because of the potential availability of securitized utility
651 tariff bond financing.

652 (5) After the issuance of a financing order with or
653 without conditions, the electrical corporation retains sole
654 discretion regarding whether to cause the securitized
655 utility tariff bonds to be issued, including the right to
656 defer or postpone such sale, assignment, transfer, or
657 issuance. Nothing shall prevent the electrical corporation
658 from abandoning the issuance of securitized utility tariff
659 bonds under the financing order by filing with the
660 commission a statement of abandonment and the reasons

661 therefor; provided, that the electrical corporation's
662 abandonment decision shall not be deemed imprudent because
663 of the potential availability of securitized utility tariff
664 bond financing; and provided further, that an electrical
665 corporation's decision to abandon issuance of such bonds may
666 be raised by any party, including the commission, as a
667 reason the commission should not authorize, or should
668 modify, the rate-making treatment proposed by the electrical
669 corporation of the costs associated with the electric
670 generating facility that was the subject of a petition under
671 this section that would have been securitized as energy
672 transition costs had such abandonment decision not been
673 made, but only if the electrical corporation requests
674 nonstandard plant retirement treatment of such costs for
675 rate-making purposes.

676 (6) The commission may not, directly or indirectly,
677 utilize or consider the debt reflected by the securitized
678 utility tariff bonds in establishing the electrical
679 corporation's capital structure used to determine any
680 regulatory matter, including but not limited to the
681 electrical corporation's revenue requirement used to set its
682 rates.

683 (7) The commission may not, directly or indirectly,
684 consider the existence of securitized utility tariff bonds
685 or the potential use of securitized utility tariff bond
686 financing proceeds in determining the electrical
687 corporation's authorized rate of return used to determine
688 the electrical corporation's revenue requirement used to set
689 its rates.

690 4. The electric bills of an electrical corporation
691 that has obtained a financing order and caused securitized
692 utility tariff bonds to be issued shall comply with the

693 provisions of this subsection; however, the failure of an
694 electrical corporation to comply with this subsection does
695 not invalidate, impair, or affect any financing order,
696 securitized utility tariff property, securitized utility
697 tariff charge, or securitized utility tariff bonds. The
698 electrical corporation shall do the following:

699 (1) Explicitly reflect that a portion of the charges
700 on such bill represents securitized utility tariff charges
701 approved in a financing order issued to the electrical
702 corporation and, if the securitized utility tariff property
703 has been transferred to an assignee, shall include a
704 statement to the effect that the assignee is the owner of
705 the rights to securitized utility tariff charges and that
706 the electrical corporation or other entity, if applicable,
707 is acting as a collection agent or servicer for the
708 assignee. The tariff applicable to customers shall indicate
709 the securitized utility tariff charge and the ownership of
710 the charge;

711 (2) Include the securitized utility tariff charge on
712 each customer's bill as a separate line item and include
713 both the rate and the amount of the charge on each bill.

714 5. (1) (a) All securitized utility tariff property
715 that is specified in a financing order constitutes an
716 existing, present intangible property right or interest
717 therein, notwithstanding that the imposition and collection
718 of securitized utility tariff charges depends on the
719 electrical corporation, to which the financing order is
720 issued, performing its servicing functions relating to the
721 collection of securitized utility tariff charges and on
722 future electricity consumption. The property exists:

723 a. Regardless of whether or not the revenues or
724 proceeds arising from the property have been billed, have
725 accrued, or have been collected; and

726 b. Notwithstanding the fact that the value or amount
727 of the property is dependent on the future provision of
728 service to customers by the electrical corporation or its
729 successors or assignees and the future consumption of
730 electricity by customers.

731 (b) Securitized utility tariff property specified in a
732 financing order exists until securitized utility tariff
733 bonds issued pursuant to the financing order are paid in
734 full and all financing costs and other costs of such
735 securitized utility tariff bonds have been recovered in full.

736 (c) All or any portion of securitized utility tariff
737 property specified in a financing order issued to an
738 electrical corporation may be transferred, sold, conveyed,
739 or assigned to a successor or assignee that is wholly owned,
740 directly or indirectly, by the electrical corporation and
741 created for the limited purpose of acquiring, owning, or
742 administering securitized utility tariff property or issuing
743 securitized utility tariff bonds under the financing order.
744 All or any portion of securitized utility tariff property
745 may be pledged to secure securitized utility tariff bonds
746 issued pursuant to the financing order, amounts payable to
747 financing parties and to counterparties under any ancillary
748 agreements, and other financing costs. Any transfer, sale,
749 conveyance, assignment, grant of a security interest in or
750 pledge of securitized utility tariff property by an
751 electrical corporation, or an affiliate of the electrical
752 corporation, to an assignee, to the extent previously
753 authorized in a financing order, does not require the prior
754 consent and approval of the commission.

755 (d) If an electrical corporation defaults on any
756 required remittance of securitized utility tariff charges
757 arising from securitized utility tariff property specified
758 in a financing order, a court, upon application by an
759 interested party, and without limiting any other remedies
760 available to the applying party, shall order the
761 sequestration and payment of the revenues arising from the
762 securitized utility tariff property to the financing parties
763 or their assignees. Any such financing order remains in
764 full force and effect notwithstanding any reorganization,
765 bankruptcy, or other insolvency proceedings with respect to
766 the electrical corporation or its successors or assignees.

767 (e) The interest of a transferee, purchaser, acquirer,
768 assignee, or pledgee in securitized utility tariff property
769 specified in a financing order issued to an electrical
770 corporation, and in the revenue and collections arising from
771 that property, is not subject to setoff, counterclaim,
772 surcharge, or defense by the electrical corporation or any
773 other person or in connection with the reorganization,
774 bankruptcy, or other insolvency of the electrical
775 corporation or any other entity.

776 (f) Any successor to an electrical corporation,
777 whether pursuant to any reorganization, bankruptcy, or other
778 insolvency proceeding or whether pursuant to any merger or
779 acquisition, sale, or other business combination, or
780 transfer by operation of law, as a result of electrical
781 corporation restructuring or otherwise, shall perform and
782 satisfy all obligations of, and have the same rights under a
783 financing order as, the electrical corporation under the
784 financing order in the same manner and to the same extent as
785 the electrical corporation, including collecting and paying
786 to the person entitled to receive the revenues, collections,

787 payments, or proceeds of the securitized utility tariff
788 property. Nothing in this section is intended to limit or
789 impair any authority of the commission concerning the
790 transfer or succession of interests of public utilities.

791 (g) Securitized utility tariff bonds shall be
792 nonrecourse to the credit or any assets of the electrical
793 corporation other than the securitized utility tariff
794 property as specified in the financing order and any rights
795 under any ancillary agreement.

796 (2) (a) The creation, perfection, priority, and
797 enforcement of any security interest in securitized utility
798 tariff property to secure the repayment of the principal and
799 interest and other amounts payable in respect of securitized
800 utility tariff bonds, amounts payable under any ancillary
801 agreement and other financing costs are governed by this
802 section and not by the provisions of the code, except as
803 otherwise provided in this section.

804 (b) A security interest in securitized utility tariff
805 property is created, valid, and binding at the later of the
806 time:

807 a. The financing order is issued;

808 b. A security agreement is executed and delivered by
809 the debtor granting such security interest;

810 c. The debtor has rights in such securitized utility
811 tariff property or the power to transfer rights in such
812 securitized utility tariff property; or

813 d. Value is received for the securitized utility
814 tariff property.

815 The description of securitized utility tariff property in a
816 security agreement is sufficient if the description refers
817 to this section and the financing order creating the

818 securitized utility tariff property. A security interest
819 shall attach as provided in this paragraph without any
820 physical delivery of collateral or other act.

821 (c) Upon the filing of a financing statement with the
822 office of the secretary of state as provided in this
823 section, a security interest in securitized utility tariff
824 property shall be perfected against all parties having
825 claims of any kind in tort, contract, or otherwise against
826 the person granting the security interest, and regardless of
827 whether the parties have notice of the security interest.
828 Without limiting the foregoing, upon such filing a security
829 interest in securitized utility tariff property shall be
830 perfected against all claims of lien creditors, and shall
831 have priority over all competing security interests and
832 other claims other than any security interest previously
833 perfected in accordance with this section.

834 (d) The priority of a security interest in securitized
835 utility tariff property is not affected by the commingling
836 of securitized utility tariff charges with other amounts.
837 Any pledgee or secured party shall have a perfected security
838 interest in the amount of all securitized utility tariff
839 charges that are deposited in any cash or deposit account of
840 the qualifying electrical corporation in which securitized
841 utility tariff charges have been commingled with other funds
842 and any other security interest that may apply to those
843 funds shall be terminated when they are transferred to a
844 segregated account for the assignee or a financing party.

845 (e) No application of the formula-based true-up
846 mechanism as provided in this section will affect the
847 validity, perfection, or priority of a security interest in
848 or transfer of securitized utility tariff property.

849 (f) If a default occurs under the securitized utility
850 tariff bonds that are secured by a security interest in
851 securitized utility tariff property, the financing parties
852 or their representatives may exercise the rights and
853 remedies available to a secured party under the code,
854 including the rights and remedies available under part 6 of
855 article 9 of the code. The commission may also order
856 amounts arising from securitized utility tariff charges be
857 transferred to a separate account for the financing parties'
858 benefit, to which their lien and security interest shall
859 apply. On application by or on behalf of the financing
860 parties, the circuit court for the county or city in which
861 the electrical corporation's headquarters is located shall
862 order the sequestration and payment to them of revenues
863 arising from the securitized utility tariff charges.

864 (3) (a) Any sale, assignment, or other transfer of
865 securitized utility tariff property shall be an absolute
866 transfer and true sale of, and not a pledge of or secured
867 transaction relating to, the seller's right, title, and
868 interest in, to, and under the securitized utility tariff
869 property if the documents governing the transaction
870 expressly state that the transaction is a sale or other
871 absolute transfer other than for federal and state income
872 tax purposes. For all purposes other than federal and state
873 income tax purposes, the parties' characterization of a
874 transaction as a sale of an interest in securitized utility
875 tariff property shall be conclusive that the transaction is
876 a true sale and that ownership has passed to the party
877 characterized as the purchaser, regardless of whether the
878 purchaser has possession of any documents evidencing or
879 pertaining to the interest. A sale or similar outright
880 transfer of an interest in securitized utility tariff

881 property may occur only when all of the following have
882 occurred:

883 a. The financing order creating the securitized
884 utility tariff property has become effective;

885 b. The documents evidencing the transfer of
886 securitized utility tariff property have been executed by
887 the assignor and delivered to the assignee; and

888 c. Value is received for the securitized utility
889 tariff property.

890 After such a transaction, the securitized utility tariff
891 property is not subject to any claims of the transferor or
892 the transferor's creditors, other than creditors holding a
893 prior security interest in the securitized utility tariff
894 property perfected in accordance with this section.

895 (b) The characterization of the sale, assignment, or
896 other transfer as an absolute transfer and true sale and the
897 corresponding characterization of the property interest of
898 the purchaser shall not be affected or impaired by the
899 occurrence of any of the following factors:

900 a. Commingling of securitized utility tariff charges
901 with other amounts;

902 b. The retention by the seller of (i) a partial or
903 residual interest, including an equity interest, in the
904 securitized utility tariff property, whether direct or
905 indirect, or whether subordinate or otherwise, or (ii) the
906 right to recover costs associated with taxes, franchise
907 fees, or license fees imposed on the collection of
908 securitized utility tariff charges;

909 c. Any recourse that the purchaser may have against
910 the seller;

- 911 d. Any indemnification rights, obligations, or
912 repurchase rights made or provided by the seller;
- 913 e. The obligation of the seller to collect securitized
914 utility tariff charges on behalf of an assignee;
- 915 f. The transferor acting as the servicer of the
916 securitized utility tariff charges or the existence of any
917 contract that authorizes or requires the electrical
918 corporation, to the extent that any interest in securitized
919 utility tariff property is sold or assigned, to contract
920 with the assignee or any financing party that it will
921 continue to operate its system to provide service to its
922 customers, will collect amounts in respect of the
923 securitized utility tariff charges for the benefit and
924 account of such assignee or financing party, and will
925 account for and remit such amounts to or for the account of
926 such assignee or financing party;
- 927 g. The treatment of the sale, conveyance, assignment,
928 or other transfer for tax, financial reporting, or other
929 purposes;
- 930 h. The granting or providing to bondholders a
931 preferred right to the securitized utility tariff property
932 or credit enhancement by the electrical corporation or its
933 affiliates with respect to such securitized utility tariff
934 bonds;
- 935 i. Any application of the formula-based true-up
936 mechanism as provided in this section.
- 937 (c) Any right that an electrical corporation has in
938 the securitized utility tariff property before its pledge,
939 sale, or transfer or any other right created under this
940 section or created in the financing order and assignable
941 under this section or assignable pursuant to a financing
942 order is property in the form of a contract right or a chose

943 in action. Transfer of an interest in securitized utility
944 tariff property to an assignee is enforceable only upon the
945 later of:

946 a. The issuance of a financing order;

947 b. The assignor having rights in such securitized
948 utility tariff property or the power to transfer rights in
949 such securitized utility tariff property to an assignee;

950 c. The execution and delivery by the assignor of
951 transfer documents in connection with the issuance of
952 securitized utility tariff bonds; and

953 d. The receipt of value for the securitized utility
954 tariff property.

955 An enforceable transfer of an interest in securitized
956 utility tariff property to an assignee is perfected against
957 all third parties, including subsequent judicial or other
958 lien creditors, when a notice of that transfer has been
959 given by the filing of a financing statement in accordance
960 with subsection 7 of this section. The transfer is
961 perfected against third parties as of the date of filing.

962 (d) The priority of a transfer perfected under this
963 section is not impaired by any later modification of the
964 financing order or securitized utility tariff property or by
965 the commingling of funds arising from securitized utility
966 tariff property with other funds. Any other security
967 interest that may apply to those funds, other than a
968 security interest perfected under this section, is
969 terminated when they are transferred to a segregated account
970 for the assignee or a financing party. If securitized
971 utility tariff property has been transferred to an assignee
972 or financing party, any proceeds of that property shall be
973 held in trust for the assignee or financing party.

974 (e) The priority of the conflicting interests of
975 assignees in the same interest or rights in any securitized
976 utility tariff property is determined as follows:

977 a. Conflicting perfected interests or rights of
978 assignees rank according to priority in time of perfection.
979 Priority dates from the time a filing covering the transfer
980 is made in accordance with subsection 7 of this section;

981 b. A perfected interest or right of an assignee has
982 priority over a conflicting unperfected interest or right of
983 an assignee;

984 c. A perfected interest or right of an assignee has
985 priority over a person who becomes a lien creditor after the
986 perfection of such assignee's interest or right.

987 6. The description of securitized utility tariff
988 property being transferred to an assignee in any sale
989 agreement, purchase agreement, or other transfer agreement,
990 granted or pledged to a pledgee in any security agreement,
991 pledge agreement, or other security document, or indicated
992 in any financing statement is only sufficient if such
993 description or indication refers to the financing order that
994 created the securitized utility tariff property and states
995 that the agreement or financing statement covers all or part
996 of the property described in the financing order. This
997 section applies to all purported transfers of, and all
998 purported grants or liens or security interests in,
999 securitized utility tariff property, regardless of whether
1000 the related sale agreement, purchase agreement, other
1001 transfer agreement, security agreement, pledge agreement, or
1002 other security document was entered into, or any financing
1003 statement was filed.

1004 7. The secretary of state shall maintain any financing
1005 statement filed to perfect a sale or other transfer of

1006 securitized utility tariff property and any security
1007 interest in securitized utility tariff property under this
1008 section in the same manner that the secretary of state
1009 maintains financing statements filed under the code to
1010 perfect a security interest in collateral owned by a
1011 transmitting utility. Except as otherwise provided in this
1012 section, all financing statements filed pursuant to this
1013 section shall be governed by the provisions regarding
1014 financing statements and the filing thereof under the code,
1015 including part 5 of article 9 of the code. A security
1016 interest in securitized utility tariff property may be
1017 perfected only by the filing of a financing statement in
1018 accordance with this section, and no other method of
1019 perfection shall be effective. Notwithstanding any
1020 provision of the code to the contrary, a financing statement
1021 filed pursuant to this section is effective until a
1022 termination statement is filed under the code, and no
1023 continuation statement need be filed to maintain its
1024 effectiveness. A financing statement filed pursuant to this
1025 section may indicate that the debtor is a transmitting
1026 utility, and without regard to whether the debtor is an
1027 electrical corporation, an assignee or otherwise qualifies
1028 as a transmitting utility under the code, but the failure to
1029 make such indication shall not impair the duration and
1030 effectiveness of the financing statement.

1031 8. The law governing the validity, enforceability,
1032 attachment, perfection, priority, and exercise of remedies
1033 with respect to the transfer of an interest or right or the
1034 pledge or creation of a security interest in any securitized
1035 utility tariff property shall be the laws of this state.

1036 9. Neither the state nor its political subdivisions
1037 are liable on any securitized utility tariff bonds, and the

1038 bonds are not a debt or a general obligation of the state or
1039 any of its political subdivisions, agencies, or
1040 instrumentalities, nor are they special obligations or
1041 indebtedness of the state or any agency or political
1042 subdivision. An issue of securitized utility tariff bonds
1043 does not, directly, indirectly, or contingently, obligate
1044 the state or any agency, political subdivision, or
1045 instrumentality of the state to levy any tax or make any
1046 appropriation for payment of the securitized utility tariff
1047 bonds, other than in their capacity as consumers of
1048 electricity. All securitized utility tariff bonds shall
1049 contain on the face thereof a statement to the following
1050 effect: "Neither the full faith and credit nor the taxing
1051 power of the state of Missouri is pledged to the payment of
1052 the principal of, or interest on, this bond."

1053 10. All of the following entities may legally invest
1054 any sinking funds, moneys, or other funds in securitized
1055 utility tariff bonds:

1056 (1) Subject to applicable statutory restrictions on
1057 state or local investment authority, the state, units of
1058 local government, political subdivisions, public bodies, and
1059 public officers, except for members of the commission, the
1060 commission's technical advisory and other staff, or
1061 employees of the office of the public counsel;

1062 (2) Banks and bankers, savings and loan associations,
1063 credit unions, trust companies, savings banks and
1064 institutions, investment companies, insurance companies,
1065 insurance associations, and other persons carrying on a
1066 banking or insurance business;

1067 (3) Personal representatives, guardians, trustees, and
1068 other fiduciaries;

1069 (4) All other persons authorized to invest in bonds or
1070 other obligations of a similar nature.

1071 11. (1) The state and its agencies, including the
1072 commission, pledge and agree with bondholders, the owners of
1073 the securitized utility tariff property, and other financing
1074 parties that the state and its agencies will not take any
1075 action listed in this subdivision. This subdivision does
1076 not preclude limitation or alteration if full compensation
1077 is made by law for the full protection of the securitized
1078 utility tariff charges collected pursuant to a financing
1079 order and of the bondholders and any assignee or financing
1080 party entering into a contract with the electrical
1081 corporation. The prohibited actions are as follows:

1082 (a) Alter the provisions of this section, which
1083 authorize the commission to create an irrevocable contract
1084 right or chose in action by the issuance of a financing
1085 order, to create securitized utility tariff property, and
1086 make the securitized utility tariff charges imposed by a
1087 financing order irrevocable, binding, or nonbypassable
1088 charges for all existing and future retail customers of the
1089 electrical corporation except its existing special contract
1090 customers;

1091 (b) Take or permit any action that impairs or would
1092 impair the value of securitized utility tariff property or
1093 the security for the securitized utility tariff bonds or
1094 revises the securitized utility tariff costs for which
1095 recovery is authorized;

1096 (c) In any way impair the rights and remedies of the
1097 bondholders, assignees, and other financing parties;

1098 (d) Except for changes made pursuant to the formula-
1099 based true-up mechanism authorized under this section,
1100 reduce, alter, or impair securitized utility tariff charges

1101 that are to be imposed, billed, charged, collected, and
1102 remitted for the benefit of the bondholders, any assignee,
1103 and any other financing parties until any and all principal,
1104 interest, premium, financing costs and other fees, expenses,
1105 or charges incurred, and any contracts to be performed, in
1106 connection with the related securitized utility tariff bonds
1107 have been paid and performed in full.

1108 (2) Any person or entity that issues securitized
1109 utility tariff bonds may include the language specified in
1110 this subsection in the securitized utility tariff bonds and
1111 related documentation.

1112 12. An assignee or financing party is not an
1113 electrical corporation or person providing electric service
1114 by virtue of engaging in the transactions described in this
1115 section.

1116 13. If there is a conflict between this section and
1117 any other law regarding the attachment, assignment, or
1118 perfection, or the effect of perfection, or priority of,
1119 assignment or transfer of, or security interest in
1120 securitized utility tariff property, this section shall
1121 govern.

1122 14. If any provision of this section is held invalid
1123 or is invalidated, superseded, replaced, repealed, or
1124 expires for any reason, that occurrence does not affect the
1125 validity of any action allowed under this section which is
1126 taken by an electrical corporation, an assignee, a financing
1127 party, a collection agent, or a party to an ancillary
1128 agreement; and any such action remains in full force and
1129 effect with respect to all securitized utility tariff bonds
1130 issued or authorized in a financing order issued under this
1131 section before the date that such provision is held invalid

1132 or is invalidated, superseded, replaced, or repealed, or
1133 expires for any reason.

✓