

SECOND REGULAR SESSION

[PERFECTED]

SENATE SUBSTITUTE NO. 2 FOR

SENATE COMMITTEE SUBSTITUTE FOR

# SENATE BILL NO. 745

101ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR CIERPIOT.

3566S.05P

ADRIANE D. CROUSE, Secretary

## AN ACT

To repeal sections 144.030, 386.890, 393.1700, 393.1715, and 610.021, RSMo, and to enact in lieu thereof seven new sections relating to utilities.

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

Section A. Sections 144.030, 386.890, 393.1700, 393.1715,  
2 and 610.021, RSMo, are repealed and seven new sections enacted  
3 in lieu thereof, to be known as sections 144.030, 386.885,  
4 386.890, 393.1275, 393.1700, 393.1715, and 610.021, to read as  
5 follows:

144.030. 1. There is hereby specifically exempted  
2 from the provisions of sections 144.010 to 144.525 and from  
3 the computation of the tax levied, assessed or payable  
4 pursuant to sections 144.010 to 144.525 such retail sales as  
5 may be made in commerce between this state and any other  
6 state of the United States, or between this state and any  
7 foreign country, and any retail sale which the state of  
8 Missouri is prohibited from taxing pursuant to the  
9 Constitution or laws of the United States of America, and  
10 such retail sales of tangible personal property which the  
11 general assembly of the state of Missouri is prohibited from  
12 taxing or further taxing by the constitution of this state.

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

13           2. There are also specifically exempted from the  
14 provisions of the local sales tax law as defined in section  
15 32.085, section 238.235, and sections 144.010 to 144.525 and  
16 144.600 to 144.761 and from the computation of the tax  
17 levied, assessed or payable pursuant to the local sales tax  
18 law as defined in section 32.085, section 238.235, and  
19 sections 144.010 to 144.525 and 144.600 to 144.745:

20           (1) Motor fuel or special fuel subject to an excise  
21 tax of this state, unless all or part of such excise tax is  
22 refunded pursuant to section 142.824; or upon the sale at  
23 retail of fuel to be consumed in manufacturing or creating  
24 gas, power, steam, electrical current or in furnishing water  
25 to be sold ultimately at retail; or feed for livestock or  
26 poultry; or grain to be converted into foodstuffs which are  
27 to be sold ultimately in processed form at retail; or seed,  
28 limestone or fertilizer which is to be used for seeding,  
29 liming or fertilizing crops which when harvested will be  
30 sold at retail or will be fed to livestock or poultry to be  
31 sold ultimately in processed form at retail; economic  
32 poisons registered pursuant to the provisions of the  
33 Missouri pesticide registration law, sections 281.220 to  
34 281.310, which are to be used in connection with the growth  
35 or production of crops, fruit trees or orchards applied  
36 before, during, or after planting, the crop of which when  
37 harvested will be sold at retail or will be converted into  
38 foodstuffs which are to be sold ultimately in processed form  
39 at retail;

40           (2) Materials, manufactured goods, machinery and parts  
41 which when used in manufacturing, processing, compounding,  
42 mining, producing or fabricating become a component part or  
43 ingredient of the new personal property resulting from such  
44 manufacturing, processing, compounding, mining, producing or

45 fabricating and which new personal property is intended to  
46 be sold ultimately for final use or consumption; and  
47 materials, including without limitation, gases and  
48 manufactured goods, including without limitation slagging  
49 materials and firebrick, which are ultimately consumed in  
50 the manufacturing process by blending, reacting or  
51 interacting with or by becoming, in whole or in part,  
52 component parts or ingredients of steel products intended to  
53 be sold ultimately for final use or consumption;

54 (3) Materials, replacement parts and equipment  
55 purchased for use directly upon, and for the repair and  
56 maintenance or manufacture of, motor vehicles, watercraft,  
57 railroad rolling stock or aircraft engaged as common  
58 carriers of persons or property;

59 (4) Replacement machinery, equipment, and parts and  
60 the materials and supplies solely required for the  
61 installation or construction of such replacement machinery,  
62 equipment, and parts, used directly in manufacturing,  
63 mining, fabricating or producing a product which is intended  
64 to be sold ultimately for final use or consumption; and  
65 machinery and equipment, and the materials and supplies  
66 required solely for the operation, installation or  
67 construction of such machinery and equipment, purchased and  
68 used to establish new, or to replace or expand existing,  
69 material recovery processing plants in this state. For the  
70 purposes of this subdivision, a "material recovery  
71 processing plant" means a facility that has as its primary  
72 purpose the recovery of materials into a usable product or a  
73 different form which is used in producing a new product and  
74 shall include a facility or equipment which are used  
75 exclusively for the collection of recovered materials for  
76 delivery to a material recovery processing plant but shall

77 not include motor vehicles used on highways. For purposes  
78 of this section, the terms motor vehicle and highway shall  
79 have the same meaning pursuant to section 301.010. For the  
80 purposes of this subdivision, subdivision (5) of this  
81 subsection, and section 144.054, as well as the definition  
82 in subdivision (9) of subsection 1 of section 144.010, the  
83 term "product" includes telecommunications services and the  
84 term "manufacturing" shall include the production, or  
85 production and transmission, of telecommunications  
86 services. The preceding sentence does not make a  
87 substantive change in the law and is intended to clarify  
88 that the term "manufacturing" has included and continues to  
89 include the production and transmission of  
90 "telecommunications services", as enacted in this  
91 subdivision and subdivision (5) of this subsection, as well  
92 as the definition in subdivision (9) of subsection 1 of  
93 section 144.010. The preceding two sentences reaffirm  
94 legislative intent consistent with the interpretation of  
95 this subdivision and subdivision (5) of this subsection in  
96 *Southwestern Bell Tel. Co. v. Director of Revenue*, 78 S.W.3d  
97 763 (Mo. banc 2002) and *Southwestern Bell Tel. Co. v.*  
98 *Director of Revenue*, 182 S.W.3d 226 (Mo. banc 2005), and  
99 accordingly abrogates the Missouri supreme court's  
100 interpretation of those exemptions in *IBM Corporation v.*  
101 *Director of Revenue*, 491 S.W.3d 535 (Mo. banc 2016) to the  
102 extent inconsistent with this section and *Southwestern Bell*  
103 *Tel. Co. v. Director of Revenue*, 78 S.W.3d 763 (Mo. banc  
104 2002) and *Southwestern Bell Tel. Co. v. Director of Revenue*,  
105 182 S.W.3d 226 (Mo. banc 2005). The construction and  
106 application of this subdivision as expressed by the Missouri  
107 supreme court in *DST Systems, Inc. v. Director of Revenue*,  
108 43 S.W.3d 799 (Mo. banc 2001); *Southwestern Bell Tel. Co. v.*

109 *Director of Revenue*, 78 S.W.3d 763 (Mo. banc 2002); and  
110 *Southwestern Bell Tel. Co. v. Director of Revenue*, 182  
111 S.W.3d 226 (Mo. banc 2005), is hereby affirmed. Material  
112 recovery is not the reuse of materials within a  
113 manufacturing process or the use of a product previously  
114 recovered. The material recovery processing plant shall  
115 qualify under the provisions of this section regardless of  
116 ownership of the material being recovered;

117 (5) Machinery and equipment, and parts and the  
118 materials and supplies solely required for the installation  
119 or construction of such machinery and equipment, purchased  
120 and used to establish new or to expand existing  
121 manufacturing, mining or fabricating plants in the state if  
122 such machinery and equipment is used directly in  
123 manufacturing, mining or fabricating a product which is  
124 intended to be sold ultimately for final use or  
125 consumption. The construction and application of this  
126 subdivision as expressed by the Missouri supreme court in  
127 *DST Systems, Inc. v. Director of Revenue*, 43 S.W.3d 799 (Mo.  
128 banc 2001); *Southwestern Bell Tel. Co. v. Director of*  
129 *Revenue*, 78 S.W.3d 763 (Mo. banc 2002); and *Southwestern*  
130 *Bell Tel. Co. v. Director of Revenue*, 182 S.W.3d 226 (Mo.  
131 banc 2005), is hereby affirmed;

132 (6) Tangible personal property which is used  
133 exclusively in the manufacturing, processing, modification  
134 or assembling of products sold to the United States  
135 government or to any agency of the United States government;

136 (7) Animals or poultry used for breeding or feeding  
137 purposes, or captive wildlife;

138 (8) Newsprint, ink, computers, photosensitive paper  
139 and film, toner, printing plates and other machinery,  
140 equipment, replacement parts and supplies used in producing

141 newspapers published for dissemination of news to the  
142 general public;

143 (9) The rentals of films, records or any type of sound  
144 or picture transcriptions for public commercial display;

145 (10) Pumping machinery and equipment used to propel  
146 products delivered by pipelines engaged as common carriers;

147 (11) Railroad rolling stock for use in transporting  
148 persons or property in interstate commerce and motor  
149 vehicles licensed for a gross weight of twenty-four thousand  
150 pounds or more or trailers used by common carriers, as  
151 defined in section 390.020, in the transportation of persons  
152 or property;

153 (12) Electrical energy used in the actual primary  
154 manufacture, processing, compounding, mining or producing of  
155 a product, or electrical energy used in the actual secondary  
156 processing or fabricating of the product, or a material  
157 recovery processing plant as defined in subdivision (4) of  
158 this subsection, in facilities owned or leased by the  
159 taxpayer, if the total cost of electrical energy so used  
160 exceeds ten percent of the total cost of production, either  
161 primary or secondary, exclusive of the cost of electrical  
162 energy so used or if the raw materials used in such  
163 processing contain at least twenty-five percent recovered  
164 materials as defined in section 260.200. There shall be a  
165 rebuttable presumption that the raw materials used in the  
166 primary manufacture of automobiles contain at least twenty-  
167 five percent recovered materials. For purposes of this  
168 subdivision, "processing" means any mode of treatment, act  
169 or series of acts performed upon materials to transform and  
170 reduce them to a different state or thing, including  
171 treatment necessary to maintain or preserve such processing  
172 by the producer at the production facility;

173           (13) Anodes which are used or consumed in  
174 manufacturing, processing, compounding, mining, producing or  
175 fabricating and which have a useful life of less than one  
176 year;

177           (14) Machinery, equipment, appliances and devices  
178 purchased or leased and used solely for the purpose of  
179 preventing, abating or monitoring air pollution, and  
180 materials and supplies solely required for the installation,  
181 construction or reconstruction of such machinery, equipment,  
182 appliances and devices;

183           (15) Machinery, equipment, appliances and devices  
184 purchased or leased and used solely for the purpose of  
185 preventing, abating or monitoring water pollution, and  
186 materials and supplies solely required for the installation,  
187 construction or reconstruction of such machinery, equipment,  
188 appliances and devices;

189           (16) Tangible personal property purchased by a rural  
190 water district;

191           (17) All amounts paid or charged for admission or  
192 participation or other fees paid by or other charges to  
193 individuals in or for any place of amusement, entertainment  
194 or recreation, games or athletic events, including museums,  
195 fairs, zoos and planetariums, owned or operated by a  
196 municipality or other political subdivision where all the  
197 proceeds derived therefrom benefit the municipality or other  
198 political subdivision and do not inure to any private  
199 person, firm, or corporation, provided, however, that a  
200 municipality or other political subdivision may enter into  
201 revenue-sharing agreements with private persons, firms, or  
202 corporations providing goods or services, including  
203 management services, in or for the place of amusement,  
204 entertainment or recreation, games or athletic events, and

205 provided further that nothing in this subdivision shall  
206 exempt from tax any amounts retained by any private person,  
207 firm, or corporation under such revenue-sharing agreement;

208 (18) All sales of insulin, and all sales, rentals,  
209 repairs, and parts of durable medical equipment, prosthetic  
210 devices, and orthopedic devices as defined on January 1,  
211 1980, by the federal Medicare program pursuant to Title  
212 XVIII of the Social Security Act of 1965, including the  
213 items specified in Section 1862(a)(12) of that act, and also  
214 specifically including hearing aids and hearing aid supplies  
215 and all sales of drugs which may be legally dispensed by a  
216 licensed pharmacist only upon a lawful prescription of a  
217 practitioner licensed to administer those items, including  
218 samples and materials used to manufacture samples which may  
219 be dispensed by a practitioner authorized to dispense such  
220 samples and all sales or rental of medical oxygen, home  
221 respiratory equipment and accessories including parts, and  
222 hospital beds and accessories and ambulatory aids including  
223 parts, and all sales or rental of manual and powered  
224 wheelchairs including parts, and stairway lifts, Braille  
225 writers, electronic Braille equipment and, if purchased or  
226 rented by or on behalf of a person with one or more physical  
227 or mental disabilities to enable them to function more  
228 independently, all sales or rental of scooters including  
229 parts, and reading machines, electronic print enlargers and  
230 magnifiers, electronic alternative and augmentative  
231 communication devices, and items used solely to modify motor  
232 vehicles to permit the use of such motor vehicles by  
233 individuals with disabilities or sales of over-the-counter  
234 or nonprescription drugs to individuals with disabilities,  
235 and drugs required by the Food and Drug Administration to  
236 meet the over-the-counter drug product labeling requirements

237 in 21 CFR 201.66, or its successor, as prescribed by a  
238 health care practitioner licensed to prescribe;

239 (19) All sales made by or to religious and charitable  
240 organizations and institutions in their religious,  
241 charitable or educational functions and activities and all  
242 sales made by or to all elementary and secondary schools  
243 operated at public expense in their educational functions  
244 and activities;

245 (20) All sales of aircraft to common carriers for  
246 storage or for use in interstate commerce and all sales made  
247 by or to not-for-profit civic, social, service or fraternal  
248 organizations, including fraternal organizations which have  
249 been declared tax-exempt organizations pursuant to Section  
250 501(c) (8) or (10) of the 1986 Internal Revenue Code, as  
251 amended, in their civic or charitable functions and  
252 activities and all sales made to eleemosynary and penal  
253 institutions and industries of the state, and all sales made  
254 to any private not-for-profit institution of higher  
255 education not otherwise excluded pursuant to subdivision  
256 (19) of this subsection or any institution of higher  
257 education supported by public funds, and all sales made to a  
258 state relief agency in the exercise of relief functions and  
259 activities;

260 (21) All ticket sales made by benevolent, scientific  
261 and educational associations which are formed to foster,  
262 encourage, and promote progress and improvement in the  
263 science of agriculture and in the raising and breeding of  
264 animals, and by nonprofit summer theater organizations if  
265 such organizations are exempt from federal tax pursuant to  
266 the provisions of the Internal Revenue Code and all  
267 admission charges and entry fees to the Missouri state fair  
268 or any fair conducted by a county agricultural and

269 mechanical society organized and operated pursuant to  
270 sections 262.290 to 262.530;

271 (22) All sales made to any private not-for-profit  
272 elementary or secondary school, all sales of feed additives,  
273 medications or vaccines administered to livestock or poultry  
274 in the production of food or fiber, all sales of pesticides  
275 used in the production of crops, livestock or poultry for  
276 food or fiber, all sales of bedding used in the production  
277 of livestock or poultry for food or fiber, all sales of  
278 propane or natural gas, electricity or diesel fuel used  
279 exclusively for drying agricultural crops, natural gas used  
280 in the primary manufacture or processing of fuel ethanol as  
281 defined in section 142.028, natural gas, propane, and  
282 electricity used by an eligible new generation cooperative  
283 or an eligible new generation processing entity as defined  
284 in section 348.432, and all sales of farm machinery and  
285 equipment, other than airplanes, motor vehicles and  
286 trailers, and any freight charges on any exempt item. As  
287 used in this subdivision, the term "feed additives" means  
288 tangible personal property which, when mixed with feed for  
289 livestock or poultry, is to be used in the feeding of  
290 livestock or poultry. As used in this subdivision, the term  
291 "pesticides" includes adjuvants such as crop oils,  
292 surfactants, wetting agents and other assorted pesticide  
293 carriers used to improve or enhance the effect of a  
294 pesticide and the foam used to mark the application of  
295 pesticides and herbicides for the production of crops,  
296 livestock or poultry. As used in this subdivision, the term  
297 "farm machinery and equipment" means new or used farm  
298 tractors and such other new or used farm machinery and  
299 equipment and repair or replacement parts thereon and any  
300 accessories for and upgrades to such farm machinery and

301 equipment, rotary mowers used exclusively for agricultural  
302 purposes, and supplies and lubricants used exclusively,  
303 solely, and directly for producing crops, raising and  
304 feeding livestock, fish, poultry, pheasants, chukar, quail,  
305 or for producing milk for ultimate sale at retail, including  
306 field drain tile, and one-half of each purchaser's purchase  
307 of diesel fuel therefor which is:

308 (a) Used exclusively for agricultural purposes;

309 (b) Used on land owned or leased for the purpose of  
310 producing farm products; and

311 (c) Used directly in producing farm products to be  
312 sold ultimately in processed form or otherwise at retail or  
313 in producing farm products to be fed to livestock or poultry  
314 to be sold ultimately in processed form at retail;

315 (23) Except as otherwise provided in section 144.032,  
316 all sales of metered water service, electricity, electrical  
317 current, natural, artificial or propane gas, wood, coal or  
318 home heating oil for domestic use and in any city not within  
319 a county, all sales of metered or unmetered water service  
320 for domestic use:

321 (a) "Domestic use" means that portion of metered water  
322 service, electricity, electrical current, natural,  
323 artificial or propane gas, wood, coal or home heating oil,  
324 and in any city not within a county, metered or unmetered  
325 water service, which an individual occupant of a residential  
326 premises uses for nonbusiness, noncommercial or  
327 nonindustrial purposes. Utility service through a single or  
328 master meter for residential apartments or condominiums,  
329 including service for common areas and facilities and vacant  
330 units, shall be deemed to be for domestic use. Each seller  
331 shall establish and maintain a system whereby individual  
332 purchases are determined as exempt or nonexempt;

333 (b) Regulated utility sellers shall determine whether  
334 individual purchases are exempt or nonexempt based upon the  
335 seller's utility service rate classifications as contained  
336 in tariffs on file with and approved by the Missouri public  
337 service commission. Sales and purchases made pursuant to  
338 the rate classification "residential" and sales to and  
339 purchases made by or on behalf of the occupants of  
340 residential apartments or condominiums through a single or  
341 master meter, including service for common areas and  
342 facilities and vacant units, shall be considered as sales  
343 made for domestic use and such sales shall be exempt from  
344 sales tax. Sellers shall charge sales tax upon the entire  
345 amount of purchases classified as nondomestic use. The  
346 seller's utility service rate classification and the  
347 provision of service thereunder shall be conclusive as to  
348 whether or not the utility must charge sales tax;

349 (c) Each person making domestic use purchases of  
350 services or property and who uses any portion of the  
351 services or property so purchased for a nondomestic use  
352 shall, by the fifteenth day of the fourth month following  
353 the year of purchase, and without assessment, notice or  
354 demand, file a return and pay sales tax on that portion of  
355 nondomestic purchases. Each person making nondomestic  
356 purchases of services or property and who uses any portion  
357 of the services or property so purchased for domestic use,  
358 and each person making domestic purchases on behalf of  
359 occupants of residential apartments or condominiums through  
360 a single or master meter, including service for common areas  
361 and facilities and vacant units, under a nonresidential  
362 utility service rate classification may, between the first  
363 day of the first month and the fifteenth day of the fourth  
364 month following the year of purchase, apply for credit or

365 refund to the director of revenue and the director shall  
366 give credit or make refund for taxes paid on the domestic  
367 use portion of the purchase. The person making such  
368 purchases on behalf of occupants of residential apartments  
369 or condominiums shall have standing to apply to the director  
370 of revenue for such credit or refund;

371 (24) All sales of handicraft items made by the seller  
372 or the seller's spouse if the seller or the seller's spouse  
373 is at least sixty-five years of age, and if the total gross  
374 proceeds from such sales do not constitute a majority of the  
375 annual gross income of the seller;

376 (25) Excise taxes, collected on sales at retail,  
377 imposed by Sections 4041, 4071, 4081, 4091, 4161, 4181,  
378 4251, 4261 and 4271 of Title 26, United States Code. The  
379 director of revenue shall promulgate rules pursuant to  
380 chapter 536 to eliminate all state and local sales taxes on  
381 such excise taxes;

382 (26) Sales of fuel consumed or used in the operation  
383 of ships, barges, or waterborne vessels which are used  
384 primarily in or for the transportation of property or cargo,  
385 or the conveyance of persons for hire, on navigable rivers  
386 bordering on or located in part in this state, if such fuel  
387 is delivered by the seller to the purchaser's barge, ship,  
388 or waterborne vessel while it is afloat upon such river;

389 (27) All sales made to an interstate compact agency  
390 created pursuant to sections 70.370 to 70.441 or sections  
391 238.010 to 238.100 in the exercise of the functions and  
392 activities of such agency as provided pursuant to the  
393 compact;

394 (28) Computers, computer software and computer  
395 security systems purchased for use by architectural or  
396 engineering firms headquartered in this state. For the

397 purposes of this subdivision, "headquartered in this state"  
398 means the office for the administrative management of at  
399 least four integrated facilities operated by the taxpayer is  
400 located in the state of Missouri;

401 (29) All livestock sales when either the seller is  
402 engaged in the growing, producing or feeding of such  
403 livestock, or the seller is engaged in the business of  
404 buying and selling, bartering or leasing of such livestock;

405 (30) All sales of barges which are to be used  
406 primarily in the transportation of property or cargo on  
407 interstate waterways;

408 (31) Electrical energy or gas, whether natural,  
409 artificial or propane, water, or other utilities which are  
410 ultimately consumed in connection with the manufacturing of  
411 cellular glass products or in any material recovery  
412 processing plant as defined in subdivision (4) of this  
413 subsection;

414 (32) Notwithstanding other provisions of law to the  
415 contrary, all sales of pesticides or herbicides used in the  
416 production of crops, aquaculture, livestock or poultry;

417 (33) Tangible personal property and utilities  
418 purchased for use or consumption directly or exclusively in  
419 the research and development of agricultural/biotechnology  
420 and plant genomics products and prescription pharmaceuticals  
421 consumed by humans or animals;

422 (34) All sales of grain bins for storage of grain for  
423 resale;

424 (35) All sales of feed which are developed for and  
425 used in the feeding of pets owned by a commercial breeder  
426 when such sales are made to a commercial breeder, as defined  
427 in section 273.325, and licensed pursuant to sections  
428 273.325 to 273.357;

429           (36) All purchases by a contractor on behalf of an  
430 entity located in another state, provided that the entity is  
431 authorized to issue a certificate of exemption for purchases  
432 to a contractor under the provisions of that state's laws.  
433 For purposes of this subdivision, the term "certificate of  
434 exemption" shall mean any document evidencing that the  
435 entity is exempt from sales and use taxes on purchases  
436 pursuant to the laws of the state in which the entity is  
437 located. Any contractor making purchases on behalf of such  
438 entity shall maintain a copy of the entity's exemption  
439 certificate as evidence of the exemption. If the exemption  
440 certificate issued by the exempt entity to the contractor is  
441 later determined by the director of revenue to be invalid  
442 for any reason and the contractor has accepted the  
443 certificate in good faith, neither the contractor or the  
444 exempt entity shall be liable for the payment of any taxes,  
445 interest and penalty due as the result of use of the invalid  
446 exemption certificate. Materials shall be exempt from all  
447 state and local sales and use taxes when purchased by a  
448 contractor for the purpose of fabricating tangible personal  
449 property which is used in fulfilling a contract for the  
450 purpose of constructing, repairing or remodeling facilities  
451 for the following:

452           (a) An exempt entity located in this state, if the  
453 entity is one of those entities able to issue project  
454 exemption certificates in accordance with the provisions of  
455 section 144.062; or

456           (b) An exempt entity located outside the state if the  
457 exempt entity is authorized to issue an exemption  
458 certificate to contractors in accordance with the provisions  
459 of that state's law and the applicable provisions of this  
460 section;

461           (37) All sales or other transfers of tangible personal  
462 property to a lessor who leases the property under a lease  
463 of one year or longer executed or in effect at the time of  
464 the sale or other transfer to an interstate compact agency  
465 created pursuant to sections 70.370 to 70.441 or sections  
466 238.010 to 238.100;

467           (38) Sales of tickets to any collegiate athletic  
468 championship event that is held in a facility owned or  
469 operated by a governmental authority or commission, a quasi-  
470 governmental agency, a state university or college or by the  
471 state or any political subdivision thereof, including a  
472 municipality, and that is played on a neutral site and may  
473 reasonably be played at a site located outside the state of  
474 Missouri. For purposes of this subdivision, "neutral site"  
475 means any site that is not located on the campus of a  
476 conference member institution participating in the event;

477           (39) All purchases by a sports complex authority  
478 created under section 64.920, and all sales of utilities by  
479 such authority at the authority's cost that are consumed in  
480 connection with the operation of a sports complex leased to  
481 a professional sports team;

482           (40) All materials, replacement parts, and equipment  
483 purchased for use directly upon, and for the modification,  
484 replacement, repair, and maintenance of aircraft, aircraft  
485 power plants, and aircraft accessories;

486           (41) Sales of sporting clays, wobble, skeet, and trap  
487 targets to any shooting range or similar places of business  
488 for use in the normal course of business and money received  
489 by a shooting range or similar places of business from  
490 patrons and held by a shooting range or similar place of  
491 business for redistribution to patrons at the conclusion of  
492 a shooting event;

493           (42) All sales of motor fuel, as defined in section  
494 142.800, used in any watercraft, as defined in section  
495 306.010;

496           (43) Any new or used aircraft sold or delivered in  
497 this state to a person who is not a resident of this state  
498 or a corporation that is not incorporated in this state, and  
499 such aircraft is not to be based in this state and shall not  
500 remain in this state more than ten business days subsequent  
501 to the last to occur of:

502           (a) The transfer of title to the aircraft to a person  
503 who is not a resident of this state or a corporation that is  
504 not incorporated in this state; or

505           (b) The date of the return to service of the aircraft  
506 in accordance with 14 CFR 91.407 for any maintenance,  
507 preventive maintenance, rebuilding, alterations, repairs, or  
508 installations that are completed contemporaneously with the  
509 transfer of title to the aircraft to a person who is not a  
510 resident of this state or a corporation that is not  
511 incorporated in this state;

512           (44) Motor vehicles registered in excess of fifty-four  
513 thousand pounds, and the trailers pulled by such motor  
514 vehicles, that are actually used in the normal course of  
515 business to haul property on the public highways of the  
516 state, and that are capable of hauling loads commensurate  
517 with the motor vehicle's registered weight; and the  
518 materials, replacement parts, and equipment purchased for  
519 use directly upon, and for the repair and maintenance or  
520 manufacture of such vehicles. For purposes of this  
521 subdivision, "motor vehicle" and "public highway" shall have  
522 the meaning as ascribed in section 390.020;

523           (45) All internet access or the use of internet access  
524 regardless of whether the tax is imposed on a provider of

525 internet access or a buyer of internet access. For purposes  
526 of this subdivision, the following terms shall mean:

527 (a) "Direct costs", costs incurred by a governmental  
528 authority solely because of an internet service provider's  
529 use of the public right-of-way. The term shall not include  
530 costs that the governmental authority would have incurred if  
531 the internet service provider did not make such use of the  
532 public right-of-way. Direct costs shall be determined in a  
533 manner consistent with generally accepted accounting  
534 principles;

535 (b) "Internet", computer and telecommunications  
536 facilities, including equipment and operating software, that  
537 comprises the interconnected worldwide network that employ  
538 the transmission control protocol or internet protocol, or  
539 any predecessor or successor protocols to that protocol, to  
540 communicate information of all kinds by wire or radio;

541 (c) "Internet access", a service that enables users to  
542 connect to the internet to access content, information, or  
543 other services without regard to whether the service is  
544 referred to as telecommunications, communications,  
545 transmission, or similar services, and without regard to  
546 whether a provider of the service is subject to regulation  
547 by the Federal Communications Commission as a common carrier  
548 under 47 U.S.C. Section 201, et seq. For purposes of this  
549 subdivision, internet access also includes: the purchase,  
550 use, or sale of communications services, including  
551 telecommunications services as defined in section 144.010,  
552 to the extent the communications services are purchased,  
553 used, or sold to provide the service described in this  
554 subdivision or to otherwise enable users to access content,  
555 information, or other services offered over the internet;  
556 services that are incidental to the provision of a service

557 described in this subdivision, when furnished to users as  
558 part of such service, including a home page, electronic  
559 mail, and instant messaging, including voice-capable and  
560 video-capable electronic mail and instant messaging, video  
561 clips, and personal electronic storage capacity; a home page  
562 electronic mail and instant messaging, including voice-  
563 capable and video-capable electronic mail and instant  
564 messaging, video clips, and personal electronic storage  
565 capacity that are provided independently or that are not  
566 packed with internet access. As used in this subdivision,  
567 internet access does not include voice, audio, and video  
568 programming or other products and services, except services  
569 described in this paragraph or this subdivision, that use  
570 internet protocol or any successor protocol and for which  
571 there is a charge, regardless of whether the charge is  
572 separately stated or aggregated with the charge for services  
573 described in this paragraph or this subdivision;

574 (d) "Tax", any charge imposed by the state or a  
575 political subdivision of the state for the purpose of  
576 generating revenues for governmental purposes and that is  
577 not a fee imposed for a specific privilege, service, or  
578 benefit conferred, except as described as otherwise under  
579 this subdivision, or any obligation imposed on a seller to  
580 collect and to remit to the state or a political subdivision  
581 of the state any gross retail tax, sales tax, or use tax  
582 imposed on a buyer by such a governmental entity. The term  
583 tax shall not include any franchise fee or similar fee  
584 imposed or authorized under section 67.1830 or 67.2689;  
585 Section 622 or 653 of the Communications Act of 1934, 47  
586 U.S.C. Section 542 and 47 U.S.C. Section 573; or any other  
587 fee related to obligations of telecommunications carriers

588 under the Communications Act of 1934, 47 U.S.C. Section 151,  
589 et seq., except to the extent that:

590 a. The fee is not imposed for the purpose of  
591 recovering direct costs incurred by the franchising or other  
592 governmental authority from providing the specific  
593 privilege, service, or benefit conferred to the payer of the  
594 fee; or

595 b. The fee is imposed for the use of a public right-of-  
596 way based on a percentage of the service revenue, and the  
597 fee exceeds the incremental direct costs incurred by the  
598 governmental authority associated with the provision of that  
599 right-of-way to the provider of internet access service.

600 Nothing in this subdivision shall be interpreted as an  
601 exemption from taxes due on goods or services that were  
602 subject to tax on January 1, 2016;

603 **(46) All purchases by a Missouri company of solar**  
604 **photovoltaic energy systems and all purchases of supplies**  
605 **used directly to make improvements to such systems, provided**  
606 **that such systems:**

607 **(a) Allow for energy storage;**

608 **(b) Include advanced or smart meter inverter capacity;**

609 **or**

610 **(c) Allow for utility scale projects greater than**  
611 **twenty megawatts.**

612 **For the purposes of this subdivision, the term "Missouri**  
613 **company" shall mean any corporation or other business**  
614 **organization that is registered with the secretary of state.**

615 3. Any ruling, agreement, or contract, whether written  
616 or oral, express or implied, between a person and this  
617 state's executive branch, or any other state agency or

618 department, stating, agreeing, or ruling that such person is  
619 not required to collect sales and use tax in this state  
620 despite the presence of a warehouse, distribution center, or  
621 fulfillment center in this state that is owned or operated  
622 by the person or an affiliated person shall be null and void  
623 unless it is specifically approved by a majority vote of  
624 each of the houses of the general assembly. For purposes of  
625 this subsection, an "affiliated person" means any person  
626 that is a member of the same controlled group of  
627 corporations as defined in Section 1563(a) of the Internal  
628 Revenue Code of 1986, as amended, as the vendor or any other  
629 entity that, notwithstanding its form of organization, bears  
630 the same ownership relationship to the vendor as a  
631 corporation that is a member of the same controlled group of  
632 corporations as defined in Section 1563(a) of the Internal  
633 Revenue Code, as amended.

**386.885. 1. There is hereby established the "Task  
2 Force on Distributed Energy Resources and Net Metering",  
3 which shall be composed of the following members:**

4 (1) Two members of the senate, with one appointed by  
5 the president pro tempore of the senate and one appointed by  
6 the minority floor leader of the senate;

7 (2) Two members of the house of representatives, with  
8 one appointed by the speaker of the house of representatives  
9 and one appointed by the minority floor leader of the house  
10 of representatives;

11 (3) The director of the division of energy, or his or  
12 her designee, to serve as a member and to provide technical  
13 assistance to the task force;

14 (4) The chair of the public service commission, or his  
15 or her designee, to serve as a member and to provide  
16 technical assistance;

17           (5) The director of the office of public counsel, or  
18 his or her designee, to serve as a member and to provide  
19 technical assistance;

20           (6) A representative from each of the three segments  
21 of the retail electric energy industry appointed by the  
22 president pro tempore of the senate from the respective  
23 nominees submitted by the statewide associations of the  
24 investor-owned electric utilities, rural electric  
25 cooperatives, and municipally-owned electric utilities;

26           (7) One representative of the retail distributed  
27 energy resources industry appointed by the chair of the  
28 public service commission;

29           (8) One representative from an organization that  
30 advocates for policy supporting renewable energy development  
31 appointed by the chair of the public service commission; and

32           (9) One representative from an organization that  
33 advocates for the interests of low-income utility customers  
34 appointed by the chair of the public service commission.

35           2. The task force shall conduct public hearings and  
36 research, and shall compile a report for delivery to the  
37 general assembly by no later than December 31, 2023. Such  
38 report shall include information on the following:

39           (1) A distributed energy resources study, which shall  
40 include a value of solar study along with the practical and  
41 economic benefits, challenges, and drawbacks of increased  
42 distributed energy generation in the state;

43           (2) Potential legislation regarding community solar as  
44 operated by non-utility entities and the fair and equitable  
45 setting of rates between distributed generation and non-  
46 distributed generation consumers; and

47           (3) Potential legislation, including but not limited  
48 to changes to the Net Metering and Easy Connection Act, if  
49 any, that would promote the overall public interest.

50           3. The task force shall meet within thirty days after  
51 its creation and shall organize by selecting a chairperson  
52 and vice chairperson, one of whom shall be a member of the  
53 senate and the other a member of the house of  
54 representatives. Thereafter, the task force may meet as  
55 often as necessary in order to accomplish the tasks assigned  
56 to it. A majority of the task force shall constitute a  
57 quorum, and a majority vote of such quorum shall be required  
58 for any action.

59           4. The staff of house research and senate research  
60 shall provide necessary clerical, research, fiscal, and  
61 legal services to the task force, as the task force may  
62 request.

63           5. The division of energy shall oversee the  
64 distributed energy resources study to be selected and  
65 conducted by an independent and objective expert with input  
66 from the members of the task force. The cost of such study  
67 shall be paid for through funds available from federal and  
68 state grants applied for by the division of energy. The  
69 division of energy shall establish procedures for the  
70 submission and non-public disclosure of confidential and  
71 propriety information.

72           6. The members of the task force shall serve without  
73 compensation, but may be reimbursed for any actual and  
74 necessary expenses incurred in the performance of the task  
75 force's official duties.

76           7. This section shall expire on December 31, 2023, or  
77 at the conclusion of the task force's work, whichever is  
78 sooner.

386.890. 1. This section shall be known and may be  
2 cited as the "Net Metering and Easy Connection Act".

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

5 (1) "Avoided fuel cost", the current average cost of  
6 fuel for the entity generating electricity, as defined by  
7 the governing body with jurisdiction over any municipal  
8 electric utility, rural electric cooperative as provided in  
9 chapter 394, or electrical corporation as provided in this  
10 chapter;

11 (2) "Commission", the public service commission of the  
12 state of Missouri;

13 (3) "Customer-generator", the owner or operator of a  
14 qualified electric energy generation unit which:

15 (a) Is powered by a renewable energy resource;

16 (b) Has an electrical generating system with a  
17 capacity of not more than one hundred kilowatts;

18 (c) Is located on a premises owned, operated, leased,  
19 or otherwise controlled by the customer-generator;

20 (d) Is interconnected and operates in parallel phase  
21 and synchronization with a retail electric supplier and has  
22 been approved by said retail electric supplier;

23 (e) Is intended primarily to offset part or all of the  
24 customer-generator's own electrical energy requirements;

25 (f) Meets all applicable safety, performance,  
26 interconnection, and reliability standards established by  
27 the National Electrical Code, the National Electrical Safety  
28 Code, the Institute of Electrical and Electronics Engineers,  
29 Underwriters Laboratories, the Federal Energy Regulatory  
30 Commission, and any local governing authorities; and

31 (g) Contains a mechanism that automatically disables  
32 the unit and interrupts the flow of electricity back onto

33 the supplier's electricity lines in the event that service  
34 to the customer-generator is interrupted;

35 (4) "Department", the department of [economic  
36 development] **natural resources**;

37 (5) "Net metering", using metering equipment  
38 sufficient to measure the difference between the electrical  
39 energy supplied to a customer-generator by a retail electric  
40 supplier and the electrical energy supplied by the customer-  
41 generator to the retail electric supplier over the  
42 applicable billing period;

43 (6) "Renewable energy resources", electrical energy  
44 produced from wind, solar thermal sources, hydroelectric  
45 sources, photovoltaic cells and panels, fuel cells using  
46 hydrogen produced by one of the above-named electrical  
47 energy sources, and other sources of energy that become  
48 available after August 28, 2007, and are certified as  
49 renewable by the department;

50 (7) "Retail electric supplier" or "supplier", any  
51 [municipal] **municipally owned electric utility operating**  
52 **under chapter 91**, electrical corporation regulated **by the**  
53 **commission** under this chapter, or rural electric cooperative  
54 **operating** under chapter 394 that provides retail electric  
55 service in this state. **An electrical corporation that**  
56 **operates under a cooperative business plan as described in**  
57 **subsection 2 of section 393.110 shall be deemed to be a**  
58 **rural electric cooperative for purposes of this section.**

59 3. A retail electric supplier shall:

60 (1) Make net metering available to customer-generators  
61 on a first-come, first-served basis until the total rated  
62 generating capacity of net metering systems equals five  
63 percent of the [utility's] **retail electric supplier's** single-  
64 hour peak load during the previous year, after which the

65 commission for [a public utility] **an electrical corporation**  
66 or the **respective** governing body [for] of other [electric  
67 utilities] **retail electric suppliers** may increase the total  
68 rated generating capacity of net metering systems to an  
69 amount above five percent. However, in a given calendar  
70 year, no retail electric supplier shall be required to  
71 approve any application for interconnection if the total  
72 rated generating capacity of all applications for  
73 interconnection already approved to date by said supplier in  
74 said calendar year equals or exceeds one percent of said  
75 supplier's single-hour peak load for the previous calendar  
76 year;

77 (2) Offer to the customer-generator a tariff or  
78 contract that is identical in electrical energy rates, rate  
79 structure, and monthly charges to the contract or tariff  
80 that the customer would be assigned if the customer were not  
81 an eligible customer-generator but shall not charge the  
82 customer-generator any additional standby, capacity,  
83 interconnection, or other fee or charge that would not  
84 otherwise be charged if the customer were not an eligible  
85 customer-generator; and

86 (3) Disclose annually the availability of the net  
87 metering program to each of its customers with the method  
88 and manner of disclosure being at the discretion of the  
89 supplier.

90 4. A customer-generator's facility shall be equipped  
91 with sufficient metering equipment that can measure the net  
92 amount of electrical energy produced or consumed by the  
93 customer-generator. If the customer-generator's existing  
94 meter equipment does not meet these requirements or if it is  
95 necessary for the **retail** electric supplier to install  
96 additional distribution equipment to accommodate the

97 customer-generator's facility, the customer-generator shall  
98 reimburse the retail electric supplier for the costs to  
99 purchase and install the necessary additional equipment. At  
100 the request of the customer-generator, such costs may be  
101 initially paid for by the retail electric supplier, and any  
102 amount up to the total costs and a reasonable interest  
103 charge may be recovered from the customer-generator over the  
104 course of up to twelve billing cycles. Any subsequent meter  
105 testing, maintenance or meter equipment change necessitated  
106 by the customer-generator shall be paid for by the customer-  
107 generator.

108 5. Consistent with the provisions in this section, the  
109 net electrical energy measurement shall be calculated in the  
110 following manner:

111 (1) For a customer-generator, a retail electric  
112 supplier shall measure the net electrical energy produced or  
113 consumed during the billing period in accordance with normal  
114 metering practices for customers in the same rate class,  
115 either by employing a single, bidirectional meter that  
116 measures the amount of electrical energy produced and  
117 consumed, or by employing multiple meters that separately  
118 measure the customer-generator's consumption and production  
119 of electricity;

120 (2) If the electricity supplied by the supplier  
121 exceeds the electricity generated by the customer-generator  
122 during a billing period, the customer-generator shall be  
123 billed for the net electricity supplied by the supplier in  
124 accordance with normal practices for customers in the same  
125 rate class;

126 (3) If the electricity generated by the customer-  
127 generator exceeds the electricity supplied by the supplier  
128 during a billing period, the customer-generator shall be

129 billed for the appropriate customer charges for that billing  
130 period in accordance with subsection 3 of this section and  
131 shall be credited an amount at least equal to the avoided  
132 fuel cost of the excess kilowatt-hours generated during the  
133 billing period, with this credit applied to the following  
134 billing period;

135 (4) Any credits granted by this subsection shall  
136 expire without any compensation at the earlier of either  
137 twelve months after their issuance or when the customer-  
138 generator disconnects service or terminates the net metering  
139 relationship with the supplier;

140 (5) For any rural electric cooperative under chapter  
141 394, or **[municipal] any municipally owned** utility, upon  
142 agreement of the wholesale generator supplying electric  
143 energy to the retail electric supplier, at the option of the  
144 retail electric supplier, the credit to the customer-  
145 generator may be provided by the wholesale generator.

146 6. (1) Each qualified electric energy generation unit  
147 used by a customer-generator shall meet all applicable  
148 safety, performance, interconnection, and reliability  
149 standards established by any local code authorities, the  
150 National Electrical Code, the National Electrical Safety  
151 Code, the Institute of Electrical and Electronics Engineers,  
152 and Underwriters Laboratories for distributed generation.  
153 No supplier shall impose any fee, charge, or other  
154 requirement not specifically authorized by this section or  
155 the rules promulgated under subsection 9 of this section  
156 unless the fee, charge, or other requirement would apply to  
157 similarly situated customers who are not customer-  
158 generators, except that a retail electric supplier may  
159 require that a customer-generator's system contain a switch,  
160 circuit breaker, fuse, or other easily accessible device or

161 feature located in immediate proximity to the customer-  
162 generator's metering equipment that would allow a utility  
163 worker the ability to manually and instantly disconnect the  
164 unit from the utility's electric distribution system.

165 (2) For systems of ten kilowatts or less, a customer-  
166 generator whose system meets the standards and rules under  
167 subdivision (1) of this subsection shall not be required to  
168 install additional controls, perform or pay for additional  
169 tests or distribution equipment, or purchase additional  
170 liability insurance beyond what is required under  
171 subdivision (1) of this subsection and subsection 4 of this  
172 section.

173 (3) For customer-generator systems of greater than ten  
174 kilowatts, the commission for **[public utilities] electrical**  
175 **corporations** and the **respective** governing body for other  
176 **[utilities] retail electric suppliers** shall, by rule or  
177 equivalent formal action by each respective governing body:

178 (a) Set forth safety, performance, and reliability  
179 standards and requirements; and

180 (b) Establish the qualifications for exemption from a  
181 requirement to install additional controls, perform or pay  
182 for additional tests or distribution equipment, or purchase  
183 additional liability insurance.

184 7. (1) Applications by a customer-generator for  
185 interconnection of a qualified electric energy generation  
186 unit meeting the requirements of subdivision (3) of  
187 subsection 2 of this section to the distribution system  
188 shall be accompanied by the plan for the customer-  
189 generator's electrical generating system, including but not  
190 limited to a wiring diagram and specifications for the  
191 generating unit, and shall be reviewed and responded to by  
192 the retail electric supplier within thirty days of receipt

193 for systems ten kilowatts or less and within ninety days of  
194 receipt for all other systems. Prior to the interconnection  
195 of the qualified generation unit to the supplier's system,  
196 the customer-generator will furnish the retail electric  
197 supplier a certification from a qualified professional  
198 electrician or engineer that the installation meets the  
199 requirements of subdivision (1) of subsection 6 of this  
200 section. If the application for interconnection is approved  
201 by the retail electric supplier and the customer-generator  
202 does not complete the interconnection within one year after  
203 receipt of notice of the approval, the approval shall expire  
204 and the customer-generator shall be responsible for filing a  
205 new application.

206 (2) Upon the change in ownership of a qualified  
207 electric energy generation unit, the new customer-generator  
208 shall be responsible for filing a new application under  
209 subdivision (1) of this subsection.

210 8. Each [commission-regulated supplier] **electrical**  
211 **corporation** shall submit an annual net metering report to  
212 the commission, and all other [nonregulated] **retail electric**  
213 **suppliers** shall submit the same report to their respective  
214 governing body and make said report available to a consumer  
215 of the supplier upon request, including the following  
216 information for the previous calendar year:

- 217 (1) The total number of customer-generator facilities;  
218 (2) The total estimated generating capacity of its net-  
219 metered customer-generators; and  
220 (3) The total estimated net kilowatt-hours received  
221 from customer-generators.

222 9. The commission shall, within nine months of January  
223 1, 2008, promulgate initial rules necessary for the  
224 administration of this section for [public utilities]

225 **electrical corporations**, which shall include regulations  
226 ensuring that simple contracts will be used for  
227 interconnection and net metering. For systems of ten  
228 kilowatts or less, the application process shall use an all-  
229 in-one document that includes a simple interconnection  
230 request, simple procedures, and a brief set of terms and  
231 conditions. Any rule or portion of a rule, as that term is  
232 defined in section 536.010, that is created under the  
233 authority delegated in this section shall become effective  
234 only if it complies with and is subject to all of the  
235 provisions of chapter 536 and, if applicable, section  
236 536.028. This section and chapter 536 are nonseverable and  
237 if any of the powers vested with the general assembly under  
238 chapter 536 to review, to delay the effective date, or to  
239 disapprove and annul a rule are subsequently held  
240 unconstitutional, then the grant of rulemaking authority and  
241 any rule proposed or adopted after August 28, 2007, shall be  
242 invalid and void.

243 10. The governing body of a rural electric cooperative  
244 or municipal utility shall, within nine months of January 1,  
245 2008, adopt policies establishing a simple contract to be  
246 used for interconnection and net metering. For systems of  
247 ten kilowatts or less, the application process shall use an  
248 all-in-one document that includes a simple interconnection  
249 request, simple procedures, and a brief set of terms and  
250 conditions.

251 11. For any cause of action relating to any damages to  
252 property or person caused by the **qualified electric energy**  
253 generation unit of a customer-generator or the  
254 interconnection thereof, the retail electric supplier shall  
255 have no liability absent clear and convincing evidence of  
256 fault on the part of the supplier.

257           12. The estimated generating capacity of all net  
258 metering systems operating under the provisions of this  
259 section shall count towards the respective retail electric  
260 supplier's accomplishment of any renewable energy portfolio  
261 target or mandate adopted by the Missouri general assembly.

262           13. The sale of qualified electric **energy** generation  
263 units to any customer-generator shall be subject to the  
264 provisions of sections **407.010 to 407.145 and sections**  
265 **407.700 to 407.720**. The attorney general shall have the  
266 authority to promulgate in accordance with the provisions of  
267 chapter 536 rules regarding mandatory disclosures of  
268 information by sellers of qualified electric **energy**  
269 generation units. Any interested person who believes that  
270 the seller of any **qualified** electric **energy** generation unit  
271 is misrepresenting the safety or performance standards of  
272 any such systems, or who believes that any electric **energy**  
273 generation unit poses a danger to any property or person,  
274 may report the same to the attorney general, who shall be  
275 authorized to investigate such claims and take any necessary  
276 and appropriate actions.

277           14. Any costs incurred under this act by a retail  
278 electric supplier shall be recoverable in that utility's  
279 rate structure.

280           15. No consumer shall connect or operate **[an] a**  
281 **qualified** electric **energy** generation unit in parallel phase  
282 and synchronization with any retail electric supplier  
283 without written approval by said supplier that all of the  
284 requirements under subdivision (1) of subsection 7 of this  
285 section have been met. For a consumer who violates this  
286 provision, a supplier may immediately and without notice  
287 disconnect the electric facilities of said consumer and  
288 terminate said consumer's electric service.

289           16. The manufacturer of any **qualified** electric **energy**  
290 generation unit used by a customer-generator may be held  
291 liable for any damages to property or person caused by a  
292 defect in the **qualified** electric **energy** generation unit of a  
293 customer-generator.

294           17. The seller, installer, or manufacturer of any  
295 **qualified** electric **energy** generation unit who knowingly  
296 misrepresents the safety aspects of [an] a **qualified**  
297 electric generation unit may be held liable for any damages  
298 to property or person caused by the **qualified** electric  
299 **energy** generation unit of a customer-generator.

**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. The commission shall also adjust**  
16 **the rate base used to establish the revenue requirement of**  
17 **such corporation to reflect the unamortized regulatory asset**  
18 **or liability account balances in such general rate**  
19 **proceedings. Such expenditures deferred under the**  
20 **provisions of this section are subject to commission**

21 **prudence review in the next general rate proceeding after**  
22 **deferral.**

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 l. 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.

393.1715. 1. An electrical corporation may petition  
2 the commission for a determination of the ratemaking  
3 principles and treatment, as proposed by the electrical  
4 corporation, that will apply to the reflection in base rates  
5 of the electrical corporation's capital and noncapital costs  
6 associated with the proposed retirement of one or more of

7 the electrical corporation's generating facilities. Without  
8 limiting the foregoing, such principles and treatment may  
9 also establish the retirement date and useful life  
10 parameters used to set depreciation rates for such  
11 facilities. Except as provided for in subsection 4 of this  
12 section, the ratemaking principles and treatment approved by  
13 the commission under this section for such facilities shall  
14 apply to the determination of the revenue requirement in  
15 each of the electrical corporation's post-determination  
16 general rate proceedings until such time as such facility is  
17 fully depreciated on the electrical corporation's books.

18 2. If the commission fails to issue a determination  
19 within two hundred fifteen days that a petition for  
20 determination of ratemaking principles and treatment is  
21 filed, the ratemaking principles and treatment proposed by  
22 the petitioning electrical corporation shall be deemed to  
23 have been approved by the commission.

24 3. Subject to the provisions of subsection 4 of this  
25 section, ratemaking principles and treatment approved by the  
26 commission, or deemed to have been approved under subsection  
27 2 of this section, shall be binding for ratemaking purposes.

28 4. (1) An electrical corporation with ratemaking  
29 principles and treatment approved by the commission, or  
30 deemed to have been approved under subsection 2 of this  
31 section, shall monitor the major factors and circumstances  
32 relating to the facility to which such principles and  
33 treatment apply. Such factors and circumstances include,  
34 but are not limited to:

- 35 (a) Terrorist activity or an act of God;  
36 (b) A significant change in federal or state tax laws;

37 (c) A significant change in federal utility laws or  
38 regulations or a significant change in generally accepted  
39 accounting principles;

40 (d) An unexpected, extended outage or shutdown of a  
41 major generating unit, other than any major generating unit  
42 shut down due to an extended outage at the time of the  
43 approval of the ratemaking principles and treatment;

44 (e) A significant change in the cost or reliability of  
45 power generation technologies;

46 (f) A significant change in fuel prices and wholesale  
47 electric market conditions;

48 (g) A significant change in the cost or effectiveness  
49 of emission control technologies;

50 (h) A significant change in the price of emission  
51 allowances;

52 (i) A significant change in the electrical  
53 corporation's load forecast;

54 (j) A significant change in capital market conditions;

55 (k) A significant change in the scope or effective  
56 dates of environmental regulations; or

57 (l) A significant change in federal or state  
58 environmental laws.

59 (2) If the electrical corporation determines that one  
60 or more major factor or circumstance has changed in a manner  
61 that warrants a change in the approved ratemaking principles  
62 and treatment, then it shall file a notice in the docket in  
63 which the approved ratemaking principles and treatment were  
64 established within forty-five days of any such  
65 determination. In its notification, the electrical  
66 corporation shall:

67           (a) Explain and specify the changes it contends are  
68 appropriate to the ratemaking principles and treatment and  
69 the reasons for the proposed changes;

70           (b) Provide a description of the alternatives that it  
71 evaluated and the process that it went through in developing  
72 its proposed changes; and

73           (c) Provide detailed workpapers that support the  
74 evaluation and the process whereby proposed changes were  
75 developed.

76           (3) If a party has concerns regarding the proposed  
77 changes, that party shall file a notice of its concerns  
78 within thirty days of the electrical corporation's filing.  
79 If the parties agree on a resolution of the concerns, the  
80 agreement shall be submitted to the commission for  
81 approval. If the parties do not reach agreement on changes  
82 to the ratemaking principles and treatment within ninety  
83 days of the date the electrical corporation filed its  
84 notice, whether the previously approved ratemaking and  
85 treatment will be changed shall be determined by the  
86 commission. If a party to the docket in which the approved  
87 ratemaking principles and treatment were approved believes  
88 that one or more major factor or circumstance has changed in  
89 a manner that warrants a change in the approved ratemaking  
90 principles and treatment and if the electrical corporation  
91 does not agree the principles and treatment should be  
92 changed, such party shall file a notice in the docket in  
93 which the approved ratemaking principles and treatment were  
94 established within forty-five days of any such  
95 determination. In its notification, such party shall:

96           (a) Explain and specify the changes it contends are  
97 appropriate to the ratemaking principles and treatment and  
98 the reasons for the proposed changes;

99           (b) Provide a description of the alternatives that it  
100 evaluated and the process that it went through in developing  
101 its proposed changes; and

102           (c) Provide detailed workpapers that support the  
103 evaluation and the process whereby proposed changes were  
104 developed.

105           (4) If a party, including the electrical corporation,  
106 has concerns regarding the proposed changes, that party  
107 shall file a notice of its concerns within thirty days of  
108 the other party's filing. If the parties do not reach  
109 agreement on changes to the ratemaking principles and  
110 treatment within ninety days of the date the notice was  
111 filed, whether the previously approved ratemaking and  
112 treatment will be changed shall be determined by the  
113 commission.

114           5. A determination of ratemaking principles and  
115 treatment under this section does not preclude an electrical  
116 corporation from also petitioning the commission under  
117 either or both of sections 393.1700 and 393.1705, provided  
118 that any costs to which such ratemaking principles and  
119 treatment would have applied in the electrical corporation's  
120 general rate proceedings which become funded by securitized  
121 utility tariff bond proceeds from a securitized utility  
122 tariff bond issued under section 393.1700 shall not  
123 thereafter be reflected in the electrical corporation's base  
124 rates.

125           6. If determined by the commission to be just,  
126 reasonable, and necessary for the provision of safe and  
127 adequate service, the electrical corporation **[may]** **shall** be  
128 permitted to retain coal-fired generating assets in rate  
129 base and recover **prudently incurred** costs associated with  
130 operating the coal-fired assets **[that remain in service to**

131 provide greater certainty that generating capacity will be  
132 available to provide essential service to customers,  
133 including during extreme weather events, and the commission  
134 shall not disallow any portion of such cost recovery on the  
135 basis that such coal-fired generating assets operate],  
136 **including** at a low capacity factor, or **that** are offline and  
137 providing capacity only[, during normal operating  
138 conditions] **in order to remain in service to customers for**  
139 **reliability during events such as extreme weather.**

140         7. The commission may promulgate rules necessary to  
141 implement the provisions of sections 393.1700 to 393.1715.  
142 Any rule or portion of a rule, as that term is defined in  
143 section 536.010, that is created under the authority  
144 delegated in this section shall become effective only if it  
145 complies with and is subject to all of the provisions of  
146 chapter 536 and, if applicable, section 536.028. This  
147 section and chapter 536 are nonseverable and if any of the  
148 powers vested with the general assembly pursuant to chapter  
149 536 to review, to delay the effective date, or to disapprove  
150 and annul a rule are subsequently held unconstitutional,  
151 then the grant of rulemaking authority and any rule proposed  
152 or adopted after August 28, 2021, shall be invalid and void.

610.021. Except to the extent disclosure is otherwise  
2 required by law, a public governmental body is authorized to  
3 close meetings, records and votes, to the extent they relate  
4 to the following:

5         (1) Legal actions, causes of action or litigation  
6 involving a public governmental body and any confidential or  
7 privileged communications between a public governmental body  
8 or its representatives and its attorneys. However, any  
9 minutes, vote or settlement agreement relating to legal  
10 actions, causes of action or litigation involving a public

11 governmental body or any agent or entity representing its  
12 interests or acting on its behalf or with its authority,  
13 including any insurance company acting on behalf of a public  
14 government body as its insured, shall be made public upon  
15 final disposition of the matter voted upon or upon the  
16 signing by the parties of the settlement agreement, unless,  
17 prior to final disposition, the settlement agreement is  
18 ordered closed by a court after a written finding that the  
19 adverse impact to a plaintiff or plaintiffs to the action  
20 clearly outweighs the public policy considerations of  
21 section 610.011, however, the amount of any moneys paid by,  
22 or on behalf of, the public governmental body shall be  
23 disclosed; provided, however, in matters involving the  
24 exercise of the power of eminent domain, the vote shall be  
25 announced or become public immediately following the action  
26 on the motion to authorize institution of such a legal  
27 action. Legal work product shall be considered a closed  
28 record;

29 (2) Leasing, purchase or sale of real estate by a  
30 public governmental body where public knowledge of the  
31 transaction might adversely affect the legal consideration  
32 therefor. However, any minutes, vote or public record  
33 approving a contract relating to the leasing, purchase or  
34 sale of real estate by a public governmental body shall be  
35 made public upon execution of the lease, purchase or sale of  
36 the real estate;

37 (3) Hiring, firing, disciplining or promoting of  
38 particular employees by a public governmental body when  
39 personal information about the employee is discussed or  
40 recorded. However, any vote on a final decision, when taken  
41 by a public governmental body, to hire, fire, promote or  
42 discipline an employee of a public governmental body shall

43 be made available with a record of how each member voted to  
44 the public within seventy-two hours of the close of the  
45 meeting where such action occurs; provided, however, that  
46 any employee so affected shall be entitled to prompt notice  
47 of such decision during the seventy-two-hour period before  
48 such decision is made available to the public. As used in  
49 this subdivision, the term "personal information" means  
50 information relating to the performance or merit of  
51 individual employees;

52 (4) The state militia or national guard or any part  
53 thereof;

54 (5) Nonjudicial mental or physical health proceedings  
55 involving identifiable persons, including medical,  
56 psychiatric, psychological, or alcoholism or drug dependency  
57 diagnosis or treatment;

58 (6) Scholastic probation, expulsion, or graduation of  
59 identifiable individuals, including records of individual  
60 test or examination scores; however, personally identifiable  
61 student records maintained by public educational  
62 institutions shall be open for inspection by the parents,  
63 guardian or other custodian of students under the age of  
64 eighteen years and by the parents, guardian or other  
65 custodian and the student if the student is over the age of  
66 eighteen years;

67 (7) Testing and examination materials, before the test  
68 or examination is given or, if it is to be given again,  
69 before so given again;

70 (8) Welfare cases of identifiable individuals;

71 (9) Preparation, including any discussions or work  
72 product, on behalf of a public governmental body or its  
73 representatives for negotiations with employee groups;

74           (10) Software codes for electronic data processing and  
75 documentation thereof;

76           (11) Specifications for competitive bidding, until  
77 either the specifications are officially approved by the  
78 public governmental body or the specifications are published  
79 for bid;

80           (12) Sealed bids and related documents, until the bids  
81 are opened; and sealed proposals and related documents or  
82 any documents related to a negotiated contract until a  
83 contract is executed, or all proposals are rejected;

84           (13) Individually identifiable personnel records,  
85 performance ratings or records pertaining to employees or  
86 applicants for employment, except that this exemption shall  
87 not apply to the names, positions, salaries and lengths of  
88 service of officers and employees of public agencies once  
89 they are employed as such, and the names of private sources  
90 donating or contributing money to the salary of a chancellor  
91 or president at all public colleges and universities in the  
92 state of Missouri and the amount of money contributed by the  
93 source;

94           (14) Records which are protected from disclosure by  
95 law;

96           (15) Meetings and public records relating to  
97 scientific and technological innovations in which the owner  
98 has a proprietary interest;

99           (16) Records relating to municipal hotlines  
100 established for the reporting of abuse and wrongdoing;

101           (17) Confidential or privileged communications between  
102 a public governmental body and its auditor, including all  
103 auditor work product; however, all final audit reports  
104 issued by the auditor are to be considered open records  
105 pursuant to this chapter;

106           (18) Operational guidelines, policies and specific  
107 response plans developed, adopted, or maintained by any  
108 public agency responsible for law enforcement, public  
109 safety, first response, or public health for use in  
110 responding to or preventing any critical incident which is  
111 or appears to be terrorist in nature and which has the  
112 potential to endanger individual or public safety or  
113 health. Financial records related to the procurement of or  
114 expenditures relating to operational guidelines, policies or  
115 plans purchased with public funds shall be open. When  
116 seeking to close information pursuant to this exception, the  
117 public governmental body shall affirmatively state in  
118 writing that disclosure would impair the public governmental  
119 body's ability to protect the security or safety of persons  
120 or real property, and shall in the same writing state that  
121 the public interest in nondisclosure outweighs the public  
122 interest in disclosure of the records;

123           (19) Existing or proposed security systems and  
124 structural plans of real property owned or leased by a  
125 public governmental body, and information that is  
126 voluntarily submitted by a nonpublic entity owning or  
127 operating an infrastructure to any public governmental body  
128 for use by that body to devise plans for protection of that  
129 infrastructure, the public disclosure of which would  
130 threaten public safety:

131           (a) Records related to the procurement of or  
132 expenditures relating to security systems purchased with  
133 public funds shall be open;

134           (b) When seeking to close information pursuant to this  
135 exception, the public governmental body shall affirmatively  
136 state in writing that disclosure would impair the public  
137 governmental body's ability to protect the security or

138 safety of persons or real property, and shall in the same  
139 writing state that the public interest in nondisclosure  
140 outweighs the public interest in disclosure of the records;

141 (c) Records that are voluntarily submitted by a  
142 nonpublic entity shall be reviewed by the receiving agency  
143 within ninety days of submission to determine if retention  
144 of the document is necessary in furtherance of a state  
145 security interest. If retention is not necessary, the  
146 documents shall be returned to the nonpublic governmental  
147 body or destroyed;

148 (20) The portion of a record that identifies security  
149 systems or access codes or authorization codes for security  
150 systems of real property;

151 (21) Records that identify the configuration of  
152 components or the operation of a computer, computer system,  
153 computer network, or telecommunications network, and would  
154 allow unauthorized access to or unlawful disruption of a  
155 computer, computer system, computer network, or  
156 telecommunications network of a public governmental body.  
157 This exception shall not be used to limit or deny access to  
158 otherwise public records in a file, document, data file or  
159 database containing public records. Records related to the  
160 procurement of or expenditures relating to such computer,  
161 computer system, computer network, or telecommunications  
162 network, including the amount of moneys paid by, or on  
163 behalf of, a public governmental body for such computer,  
164 computer system, computer network, or telecommunications  
165 network shall be open;

166 (22) Credit card numbers, personal identification  
167 numbers, digital certificates, physical and virtual keys,  
168 access codes or authorization codes that are used to protect  
169 the security of electronic transactions between a public

170 governmental body and a person or entity doing business with  
171 a public governmental body. Nothing in this section shall  
172 be deemed to close the record of a person or entity using a  
173 credit card held in the name of a public governmental body  
174 or any record of a transaction made by a person using a  
175 credit card or other method of payment for which  
176 reimbursement is made by a public governmental body;

177 (23) Records submitted by an individual, corporation,  
178 or other business entity to a public institution of higher  
179 education in connection with a proposal to license  
180 intellectual property or perform sponsored research and  
181 which contains sales projections or other business plan  
182 information the disclosure of which may endanger the  
183 competitiveness of a business; [and]

184 (24) Records relating to foster home or kinship  
185 placements of children in foster care under section 210.498;  
186 and

187 (25) **Individually identifiable customer usage and**  
188 **billing records for customers of a municipally owned**  
189 **utility, unless the records are requested by the customer or**  
190 **authorized for release by the customer, except that a**  
191 **municipally owned utility shall make available to the public**  
192 **the customer's name, billing address, location of service,**  
193 **and dates of service provided for any commercial service**  
194 **account.**

✓