

SENATE BILL NO. 838

102ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR CIERPIOT.

4174S.01H

KRISTINA MARTIN, Secretary

AN ACT

To repeal sections 393.1030 and 393.1700, RSMo, and to enact in lieu thereof two new sections relating to electric service.

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

Section A. Sections 393.1030 and 393.1700, RSMo, are
2 repealed and two new sections enacted in lieu thereof, to be
3 known as sections 393.1030 and 393.1700, to read as follows:

393.1030. 1. The commission shall, in consultation
2 with the department, prescribe by rule a portfolio
3 requirement for all electric utilities to generate or
4 purchase electricity generated from renewable energy
5 resources. Such portfolio requirement shall provide that
6 electricity from renewable energy resources shall constitute
7 the following portions of each electric utility's sales:

8 (1) No less than two percent for calendar years 2011
9 through 2013;

10 (2) No less than five percent for calendar years 2014
11 through 2017;

12 (3) No less than ten percent for calendar years 2018
13 through 2020; and

14 (4) No less than fifteen percent in each calendar year
15 beginning in 2021.

16 At least two percent of each portfolio requirement shall be
17 derived from solar energy. The portfolio requirements shall

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

18 apply to all power sold to Missouri consumers whether such
19 power is self-generated or purchased from another source in
20 or outside of this state. A utility may comply with the
21 standard in whole or in part by purchasing RECs. Each
22 kilowatt-hour of eligible energy generated in Missouri shall
23 count as 1.25 kilowatt-hours for purposes of compliance.

24 **2. (1) This subsection applies to electric utilities**
25 **with more than two hundred fifty thousand but less than one**
26 **million retail customers in Missouri as of the end of the**
27 **calendar year 2023.**

28 **(2) Energy meeting the criteria of the renewable**
29 **energy portfolio requirements set forth in subsection 1 of**
30 **this section that is generated from renewable energy**
31 **resources and contracted for by an accelerated renewable**
32 **buyer shall:**

33 **(a) Have all associated renewable energy certificates**
34 **retired by the accelerated renewable buyer, or on their**
35 **behalf, and the certificates shall not be used to meet the**
36 **electric utility's portfolio requirements pursuant to**
37 **subsection 1 of this section;**

38 **(b) Be excluded from the total electric utility's**
39 **sales used to determine the portfolio requirements pursuant**
40 **to subsection 1 of this section; and**

41 **(c) Be used to offset all or a portion of its electric**
42 **load for purposes of determining compliance with the**
43 **portfolio requirements pursuant to subsection 1 of this**
44 **section.**

45 **(3) The accelerated renewable buyer shall be exempt**
46 **from any renewable energy standard compliance costs as may**
47 **be established by the utility and approved by the**
48 **commission, based on the amount of renewable energy**
49 **certificates retired pursuant to this subsection in**

50 proportion to the accelerated renewable buyer's total
51 electric energy consumption, on an annual basis.

52 (4) An "accelerated renewable buyer" means a customer
53 of an electric utility, with an aggregate load over eighty
54 average megawatts, that enters into a contract or contracts
55 to obtain:

56 (a) Renewable energy certificates from renewable
57 energy resources as defined in section 393.1025; or

58 (b) Energy and renewable energy certificates from
59 solar or wind generation resources located within the
60 Southwest Power Pool region and initially placed in
61 commercial operation after January 1, 2020, including any
62 contract with the electric utility for such generation
63 resources that does not allocate to or recover from any
64 other customer of the utility the cost of such resources.

65 (5) Each electric utility shall certify, and verify as
66 necessary, to the commission that the accelerated renewable
67 buyer has satisfied the exemption requirements of this
68 subsection for each year, or an accelerated renewable buyer
69 may choose to certify satisfaction of this exemption by
70 reporting to the commission individually.

71 (6) The commission may promulgate such rules and
72 regulations as may be necessary to implement the provisions
73 of this subsection. Any rule or portion of a rule, as that
74 term is defined in section 536.010, that is created under
75 the authority delegated in this section shall become
76 effective only if it complies with and is subject to all of
77 the provisions of chapter 536 and, if applicable, section
78 536.028. This section and chapter 536 are nonseverable and
79 if any of the powers vested with the general assembly
80 pursuant to chapter 536 to review, to delay the effective
81 date, or to disapprove and annul a rule are subsequently

82 **held unconstitutional, then the grant of rulemaking**
83 **authority and any rule proposed or adopted after August 28,**
84 **2024, shall be invalid and void.**

85 **(7) Nothing in this section shall be construed as**
86 **imposing or authorizing the imposition of any reporting,**
87 **regulatory or financial burden on an accelerated renewable**
88 **buyer.**

89 **3.** The commission, in consultation with the department
90 and within one year of November 4, 2008, shall select a
91 program for tracking and verifying the trading of renewable
92 energy credits. An unused credit may exist for up to three
93 years from the date of its creation. A credit may be used
94 only once to comply with sections 393.1020 to 393.1030 and
95 may not also be used to satisfy any similar nonfederal
96 requirement. An electric utility may not use a credit
97 derived from a green pricing program. Certificates from net-
98 metered sources shall initially be owned by the customer-
99 generator. The commission, except where the department is
100 specified, shall make whatever rules are necessary to
101 enforce the renewable energy standard. Such rules shall
102 include:

103 (1) A maximum average retail rate increase of one
104 percent determined by estimating and comparing the electric
105 utility's cost of compliance with least-cost renewable
106 generation and the cost of continuing to generate or
107 purchase electricity from entirely nonrenewable sources,
108 taking into proper account future environmental regulatory
109 risk including the risk of greenhouse gas regulation.
110 Notwithstanding the foregoing, until June 30, 2020, if the
111 maximum average retail rate increase would be less than or
112 equal to one percent if an electric utility's investment in
113 solar-related projects initiated, owned or operated by the

114 electric utility is ignored for purposes of calculating the
115 increase, then additional solar rebates shall be paid and
116 included in rates in an amount up to the amount that would
117 produce a retail rate increase equal to the difference
118 between a one percent retail rate increase and the retail
119 rate increase calculated when ignoring an electric utility's
120 investment in solar-related projects initiated, owned, or
121 operated by the electric utility. Notwithstanding any
122 provision to the contrary in this section, even if the
123 payment of additional solar rebates will produce a maximum
124 average retail rate increase of greater than one percent
125 when an electric utility's investment in solar-related
126 projects initiated, owned or operated by the electric
127 utility are included in the calculation, the additional
128 solar rebate costs shall be included in the prudently
129 incurred costs to be recovered as contemplated by
130 subdivision (4) of this subsection;

131 (2) Penalties of at least twice the average market
132 value of renewable energy credits for the compliance period
133 for failure to meet the targets of subsection 1 of this
134 section. An electric utility will be excused if it proves
135 to the commission that failure was due to events beyond its
136 reasonable control that could not have been reasonably
137 mitigated, or that the maximum average retail rate increase
138 has been reached. Penalties shall not be recovered from
139 customers. Amounts forfeited under this section shall be
140 remitted to the department to purchase renewable energy
141 credits needed for compliance. Any excess forfeited
142 revenues shall be used by the division of energy solely for
143 renewable energy and energy efficiency projects;

144 (3) Provisions for an annual report to be filed by
145 each electric utility in a format sufficient to document its
146 progress in meeting the targets;

147 (4) Provision for recovery outside the context of a
148 regular rate case of prudently incurred costs and the pass-
149 through of benefits to customers of any savings achieved by
150 an electrical corporation in meeting the requirements of
151 this section.

152 [3.] 4. As provided for in this section, except for
153 those electrical corporations that qualify for an exemption
154 under section 393.1050, each electric utility shall make
155 available to its retail customers a solar rebate for new or
156 expanded solar electric systems sited on customers'
157 premises, up to a maximum of twenty-five kilowatts per
158 system, measured in direct current that were confirmed by
159 the electric utility to have become operational in
160 compliance with the provisions of section 386.890. The
161 solar rebates shall be two dollars per watt for systems
162 becoming operational on or before June 30, 2014; one dollar
163 and fifty cents per watt for systems becoming operational
164 between July 1, 2014, and June 30, 2015; one dollar per watt
165 for systems becoming operational between July 1, 2015, and
166 June 30, 2016; fifty cents per watt for systems becoming
167 operational between July 1, 2016, and June 30, 2017; fifty
168 cents per watt for systems becoming operational between July
169 1, 2017, and June 30, 2019; twenty-five cents per watt for
170 systems becoming operational between July 1, 2019, and June
171 30, 2020; and zero cents per watt for systems becoming
172 operational after June 30, 2020. An electric utility may,
173 through its tariffs, require applications for rebates to be
174 submitted up to one hundred eighty-two days prior to the
175 June thirtieth operational date. Nothing in this section

176 shall prevent an electrical corporation from offering
177 rebates after July 1, 2020, through an approved tariff. If
178 the electric utility determines the maximum average retail
179 rate increase provided for in subdivision (1) of subsection
180 [2] 3 of this section will be reached in any calendar year,
181 the electric utility shall be entitled to cease paying
182 rebates to the extent necessary to avoid exceeding the
183 maximum average retail rate increase if the electrical
184 corporation files with the commission to suspend its rebate
185 tariff for the remainder of that calendar year at least
186 sixty days prior to the change taking effect. The filing
187 with the commission to suspend the electrical corporation's
188 rebate tariff shall include the calculation reflecting that
189 the maximum average retail rate increase will be reached and
190 supporting documentation reflecting that the maximum average
191 retail rate increase will be reached. The commission shall
192 rule on the suspension filing within sixty days of the date
193 it is filed. If the commission determines that the maximum
194 average retail rate increase will be reached, the commission
195 shall approve the tariff suspension. The electric utility
196 shall continue to process and pay applicable solar rebates
197 until a final commission ruling; however, if the continued
198 payment causes the electric utility to pay rebates that
199 cause it to exceed the maximum average retail rate increase,
200 the expenditures shall be considered prudently incurred
201 costs as contemplated by subdivision (4) of subsection [2] 3
202 of this section and shall be recoverable as such by the
203 electric utility. As a condition of receiving a rebate,
204 customers shall transfer to the electric utility all right,
205 title, and interest in and to the renewable energy credits
206 associated with the new or expanded solar electric system
207 that qualified the customer for the solar rebate for a

208 period of ten years from the date the electric utility
209 confirmed that the solar electric system was installed and
210 operational.

211 [4.] 5. The department shall, in consultation with the
212 commission, establish by rule a certification process for
213 electricity generated from renewable resources and used to
214 fulfill the requirements of subsection 1 of this section.
215 Certification criteria for renewable energy generation shall
216 be determined by factors that include fuel type, technology,
217 and the environmental impacts of the generating facility.
218 Renewable energy facilities shall not cause undue adverse
219 air, water, or land use impacts, including impacts
220 associated with the gathering of generation feedstocks. If
221 any amount of fossil fuel is used with renewable energy
222 resources, only the portion of electrical output
223 attributable to renewable energy resources shall be used to
224 fulfill the portfolio requirements.

225 [5.] 6. In carrying out the provisions of this
226 section, the commission and the department shall include
227 methane generated from the anaerobic digestion of farm
228 animal waste and thermal depolymerization or pyrolysis for
229 converting waste material to energy as renewable energy
230 resources for purposes of this section.

231 [6.] 7. The commission shall have the authority to
232 promulgate rules for the implementation of this section, but
233 only to the extent such rules are consistent with, and do
234 not delay the implementation of, the provisions of this
235 section. Any rule or portion of a rule, as that term is
236 defined in section 536.010, that is created under the
237 authority delegated in this section shall become effective
238 only if it complies with and is subject to all of the
239 provisions of chapter 536 and, if applicable, section

240 536.028. This section and chapter 536 are nonseverable and
241 if any of the powers vested with the general assembly
242 pursuant to chapter 536 to review, to delay the effective
243 date, or to disapprove and annul a rule are subsequently
244 held unconstitutional, then the grant of rulemaking
245 authority and any rule proposed or adopted after August 28,
246 2013, shall be invalid and void.

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. **Any**
148 **customer receiving electrical service under a commission-**
149 **approved market-based tariff with a load of at least eighty**
150 **megawatts, where the servicing electrical corporation has a**
151 **commission-approved market-based tariff as of the end of**
152 **calendar year 2023, is exempt from any securitized utility**

153 **tariff charges if the charge was approved by the commission**
154 **prior to customer energization and from any future**
155 **securitized utility tariff charges if the customer directly**
156 **incurred the costs being financed through the commission-**
157 **approved market-based tariff;**

158 (17) "Securitized utility tariff costs", either energy
159 transition costs or qualified extraordinary costs as the
160 case may be;

161 (18) "Securitized utility tariff property", all of the
162 following:

163 (a) All rights and interests of an electrical
164 corporation or successor or assignee of the electrical
165 corporation under a financing order, including the right to
166 impose, bill, charge, collect, and receive securitized
167 utility tariff charges authorized under the financing order
168 and to obtain periodic adjustments to such charges as
169 provided in the financing order;

170 (b) All revenues, collections, claims, rights to
171 payments, payments, money, or proceeds arising from the
172 rights and interests specified in the financing order,
173 regardless of whether such revenues, collections, claims,
174 rights to payment, payments, money, or proceeds are imposed,
175 billed, received, collected, or maintained together with or
176 commingled with other revenues, collections, rights to
177 payment, payments, money, or proceeds;

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

181 2. (1) An electrical corporation may petition the
182 commission for a financing order to finance energy
183 transition costs through an issuance of securitized utility

184 tariff bonds. The petition shall include all of the
185 following:

186 (a) A description of the electric generating facility
187 or facilities that the electrical corporation has retired or
188 abandoned, or proposes to retire or abandon, prior to the
189 date that all undepreciated investment relating thereto has
190 been recovered through rates and the reasons for undertaking
191 such early retirement or abandonment, or if the electrical
192 corporation is subject to a separate commission order or
193 proceeding relating to such retirement or abandonment as
194 contemplated by subdivision (2) of this subsection, and a
195 description of the order or other proceeding;

196 (b) The energy transition costs;

197 (c) An indicator of whether the electrical corporation
198 proposes to finance all or a portion of the energy
199 transition costs using securitized utility tariff bonds. If
200 the electrical corporation proposes to finance a portion of
201 the costs, the electrical corporation shall identify the
202 specific portion in the petition. By electing not to
203 finance all or any portion of such energy transition costs
204 using securitized utility tariff bonds, an electrical
205 corporation shall not be deemed to waive its right to
206 recover such costs pursuant to a separate proceeding with
207 the commission;

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

210 (e) An estimate of the securitized utility tariff
211 charges necessary to recover the securitized utility tariff
212 costs and financing costs and the period for recovery of
213 such costs;

214 (f) A comparison between the net present value of the
215 costs to customers that are estimated to result from the

216 issuance of securitized utility tariff bonds and the costs
217 that would result from the application of the traditional
218 method of financing and recovering the undepreciated
219 investment of facilities that may become securitized utility
220 tariff costs from customers. The comparison should
221 demonstrate that the issuance of securitized utility tariff
222 bonds and the imposition of securitized utility tariff
223 charges are expected to provide quantifiable net present
224 value benefits to customers;

225 (g) A proposed future ratemaking process to reconcile
226 any differences between securitized utility tariff costs
227 financed by securitized utility tariff bonds and the final
228 securitized costs incurred by the electrical corporation or
229 assignee provided that any such reconciliation shall not
230 affect the amount of securitized utility tariff bonds or the
231 associated securitized utility tariff charges paid by
232 customers; and

233 (h) Direct testimony supporting the petition.

234 (2) An electrical corporation may petition the
235 commission for a financing order to finance qualified
236 extraordinary costs. The petition shall include all of the
237 following:

238 (a) A description of the qualified extraordinary
239 costs, including their magnitude, the reasons those costs
240 were incurred by the electrical corporation and the retail
241 customer rate impact that would result from customary
242 ratemaking treatment of such costs;

243 (b) An indicator of whether the electrical corporation
244 proposes to finance all or a portion of the qualified
245 extraordinary costs using securitized utility tariff bonds.
246 If the electrical corporation proposes to finance a portion
247 of the costs, the electrical corporation shall identify the

248 specific portion in the petition. By electing not to
249 finance all or any portion of such qualified extraordinary
250 costs using securitized utility tariff bonds, an electrical
251 corporation shall not be deemed to waive its right to
252 reflect such costs in its retail rates pursuant to a
253 separate proceeding with the commission;

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

256 (d) An estimate of the securitized utility tariff
257 charges necessary to recover the qualified extraordinary
258 costs and financing costs and the period for recovery of
259 such costs;

260 (e) A comparison between the net present value of the
261 costs to customers that are estimated to result from the
262 issuance of securitized utility tariff bonds and the costs
263 that would result from the application of the customary
264 method of financing and reflecting the qualified
265 extraordinary costs in retail customer rates. The
266 comparison should demonstrate that the issuance of
267 securitized utility tariff bonds and the imposition of
268 securitized utility tariff charges are expected to provide
269 quantifiable net present value benefits to retail customers;

270 (f) A proposed future ratemaking process to reconcile
271 any differences between securitized utility tariff costs
272 financed by securitized utility tariff bonds and the final
273 securitized costs incurred by the electrical corporation or
274 assignee provided that any such reconciliation shall not
275 affect the amount of securitized utility tariff bonds or the
276 associated securitized utility tariff charges paid by
277 customers; and

278 (g) Direct testimony supporting the petition.

279 (3) (a) Proceedings on a petition submitted pursuant
280 to this subsection begin with the petition by an electrical
281 corporation and shall be disposed of in accordance with the
282 requirements of this section and the rules of the
283 commission, except as follows:

284 a. The commission shall establish a procedural
285 schedule that permits a commission decision no later than
286 two hundred fifteen days after the date the petition is
287 filed;

288 b. No later than two hundred fifteen days after the
289 date the petition is filed, the commission shall issue a
290 financing order approving the petition, an order approving
291 the petition subject to conditions, or an order rejecting
292 the petition; provided, however, that the electrical
293 corporation shall provide notice of intent to file a
294 petition for a financing order to the commission no less
295 than sixty days in advance of such filing;

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

298 (b) In performing its responsibilities under this
299 section in approving, approving subject to conditions, or
300 rejecting a petition for a financing order, the commission
301 may retain counsel, one or more financial advisors, or other
302 consultants as it deems appropriate. Such outside counsel,
303 advisor or advisors, or consultants shall owe a duty of
304 loyalty solely to the commission and shall have no interest
305 in the proposed securitized utility tariff bonds. The costs
306 associated with any such engagements shall be paid by the
307 petitioning corporation and shall be included as financed
308 costs in the securitized utility tariff charge and shall not
309 be an obligation of the state and shall be assigned solely
310 to the subject transaction.

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

314 a. The amount of securitized utility tariff costs to
315 be financed using securitized utility tariff bonds and a
316 finding that recovery of such costs is just and reasonable
317 and in the public interest. The commission shall describe
318 and estimate the amount of financing costs that may be
319 recovered through securitized utility tariff charges and
320 specify the period over which securitized utility tariff
321 costs and financing costs may be recovered;

322 b. A finding that the proposed issuance of securitized
323 utility tariff bonds and the imposition and collection of a
324 securitized utility tariff charge are just and reasonable
325 and in the public interest and are expected to provide
326 quantifiable net present value benefits to customers as
327 compared to recovery of the components of securitized
328 utility tariff costs that would have been incurred absent
329 the issuance of securitized utility tariff bonds.

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

339 c. A finding that the proposed structuring and pricing
340 of the securitized utility tariff bonds are reasonably
341 expected to result in the lowest securitized utility tariff
342 charges consistent with market conditions at the time the

343 securitized utility tariff bonds are priced and the terms of
344 the financing order;

345 d. A requirement that, for so long as the securitized
346 utility tariff bonds are outstanding and until all financing
347 costs have been paid in full, the imposition and collection
348 of securitized utility tariff charges authorized under a
349 financing order shall be nonbypassable and paid by all
350 existing and future retail customers receiving electrical
351 service from the electrical corporation or its successors or
352 assignees under commission-approved rate schedules except
353 for customers receiving electrical service under special
354 contracts on August 28, 2021, even if a retail customer
355 elects to purchase electricity from an alternative electric
356 supplier following a fundamental change in regulation of
357 public utilities in this state. **Any customer receiving**
358 **electrical service under a commission-approved market-based**
359 **tariff with a load of at least eighty megawatts, where the**
360 **servicing electrical corporation has a commission-approved**
361 **market-based tariff as of the end of calendar year 2023, is**
362 **exempt from any securitized utility tariff charges if the**
363 **charge was approved by the commission prior to customer**
364 **energization and from any future securitized utility tariff**
365 **charges if the customer directly incurred the costs being**
366 **financed through the commission-approved market-based tariff;**

367 e. A formula-based true-up mechanism for making, at
368 least annually, expeditious periodic adjustments in the
369 securitized utility tariff charges that customers are
370 required to pay pursuant to the financing order and for
371 making any adjustments that are necessary to correct for any
372 overcollection or undercollection of the charges or to
373 otherwise ensure the timely payment of securitized utility
374 tariff bonds and financing costs and other required amounts

375 and charges payable under the securitized utility tariff
376 bonds;

377 f. The securitized utility tariff property that is, or
378 shall be, created in favor of an electrical corporation or
379 its successors or assignees and that shall be used to pay or
380 secure securitized utility tariff bonds and approved
381 financing costs;

382 g. The degree of flexibility to be afforded to the
383 electrical corporation in establishing the terms and
384 conditions of the securitized utility tariff bonds,
385 including, but not limited to, repayment schedules, expected
386 interest rates, and other financing costs;

387 h. How securitized utility tariff charges will be
388 allocated among retail customer classes. The initial
389 allocation shall remain in effect until the electrical
390 corporation completes a general rate proceeding, and once
391 the commission's order from that general rate proceeding
392 becomes final, all subsequent applications of an adjustment
393 mechanism regarding securitized utility tariff charges shall
394 incorporate changes in the allocation of costs to customers
395 as detailed in the commission's order from the electrical
396 corporation's most recent general rate proceeding;

397 i. A requirement that, after the final terms of an
398 issuance of securitized utility tariff bonds have been
399 established and before the issuance of securitized utility
400 tariff bonds, the electrical corporation determines the
401 resulting initial securitized utility tariff charge in
402 accordance with the financing order, and that such initial
403 securitized utility tariff charge be final and effective
404 upon the issuance of such securitized utility tariff bonds
405 with such charge to be reflected on a compliance tariff
406 sheet bearing such charge;

407 j. A method of tracing funds collected as securitized
408 utility tariff charges, or other proceeds of securitized
409 utility tariff property, determining that such method shall
410 be deemed the method of tracing such funds and determining
411 the identifiable cash proceeds of any securitized utility
412 tariff property subject to a financing order under
413 applicable law;

414 k. A statement specifying a future ratemaking process
415 to reconcile any differences between the actual securitized
416 utility tariff costs financed by securitized utility tariff
417 bonds and the final securitized utility tariff costs
418 incurred by the electrical corporation or assignee provided
419 that any such reconciliation shall not affect the amount of
420 securitized utility tariff bonds or the associated
421 securitized utility tariff charges paid by customers;

422 l. A procedure that shall allow the electrical
423 corporation to earn a return, at the cost of capital
424 authorized from time to time by the commission in the
425 electrical corporation's rate proceedings, on any moneys
426 advanced by the electrical corporation to fund reserves, if
427 any, or capital accounts established under the terms of any
428 indenture, ancillary agreement, or other financing documents
429 pertaining to the securitized utility tariff bonds;

430 m. In a financing order granting authorization to
431 securitize energy transition costs or in a financing order
432 granting authorization to securitize qualified extraordinary
433 costs that include retired or abandoned facility costs, a
434 procedure for the treatment of accumulated deferred income
435 taxes and excess deferred income taxes in connection with
436 the retired or abandoned or to be retired or abandoned
437 electric generating facility, or in connection with retired
438 or abandoned facilities included in qualified extraordinary

439 costs. The accumulated deferred income taxes, including
440 excess deferred income taxes, shall be excluded from rate
441 base in future general rate cases and the net tax benefits
442 relating to amounts that will be recovered through the
443 issuance of securitized utility tariff bonds shall be
444 credited to retail customers by reducing the amount of such
445 securitized utility tariff bonds that would otherwise be
446 issued. The customer credit shall include the net present
447 value of the tax benefits, calculated using a discount rate
448 equal to the expected interest rate of the securitized
449 utility tariff bonds, for the estimated accumulated and
450 excess deferred income taxes at the time of securitization
451 including timing differences created by the issuance of
452 securitized utility tariff bonds amortized over the period
453 of the bonds multiplied by the expected interest rate on
454 such securitized utility tariff bonds;

455 n. An outside date, which shall not be earlier than
456 one year after the date the financing order is no longer
457 subject to appeal, when the authority to issue securitized
458 utility tariff bonds granted in such financing order shall
459 expire; and

460 o. Include any other conditions that the commission
461 considers appropriate and that are not inconsistent with
462 this section.

463 (d) A financing order issued to an electrical
464 corporation may provide that creation of the electrical
465 corporation's securitized utility tariff property is
466 conditioned upon, and simultaneous with, the sale or other
467 transfer of the securitized utility tariff property to an
468 assignee and the pledge of the securitized utility tariff
469 property to secure securitized utility tariff bonds.

470 (e) If the commission issues a financing order, the
471 electrical corporation shall file with the commission at
472 least annually a petition or a letter applying the formula-
473 based true-up mechanism and, based on estimates of
474 consumption for each rate class and other mathematical
475 factors, requesting administrative approval to make the
476 applicable adjustments. The review of the filing shall be
477 limited to determining whether there are any mathematical or
478 clerical errors in the application of the formula-based true-
479 up mechanism relating to the appropriate amount of any
480 overcollection or undercollection of securitized utility
481 tariff charges and the amount of an adjustment. The
482 adjustments shall ensure the recovery of revenues sufficient
483 to provide for the payment of principal, interest,
484 acquisition, defeasance, financing costs, or redemption
485 premium and other fees, costs, and charges in respect of
486 securitized utility tariff bonds approved under the
487 financing order. Within thirty days after receiving an
488 electrical corporation's request pursuant to this paragraph,
489 the commission shall either approve the request or inform
490 the electrical corporation of any mathematical or clerical
491 errors in its calculation. If the commission informs the
492 electrical corporation of mathematical or clerical errors in
493 its calculation, the electrical corporation shall correct
494 its error and refile its request. The time frames
495 previously described in this paragraph shall apply to a
496 refiled request.

497 (f) At the time of any transfer of securitized utility
498 tariff property to an assignee or the issuance of
499 securitized utility tariff bonds authorized thereby,
500 whichever is earlier, a financing order is irrevocable and,
501 except for changes made pursuant to the formula-based true-

502 up mechanism authorized in this section, the commission may
503 not amend, modify, or terminate the financing order by any
504 subsequent action or reduce, impair, postpone, terminate, or
505 otherwise adjust securitized utility tariff charges approved
506 in the financing order. After the issuance of a financing
507 order, the electrical corporation retains sole discretion
508 regarding whether to assign, sell, or otherwise transfer
509 securitized utility tariff property or to cause securitized
510 utility tariff bonds to be issued, including the right to
511 defer or postpone such assignment, sale, transfer, or
512 issuance.

513 (g) The commission, in a financing order and subject
514 to the issuance advice letter process under paragraph (h) of
515 this subdivision, shall specify the degree of flexibility to
516 be afforded the electrical corporation in establishing the
517 terms and conditions for the securitized utility tariff
518 bonds to accommodate changes in market conditions, including
519 repayment schedules, interest rates, financing costs,
520 collateral requirements, required debt service and other
521 reserves and the ability of the electrical corporation, at
522 its option, to effect a series of issuances of securitized
523 utility tariff bonds and correlated assignments, sales,
524 pledges, or other transfers of securitized utility tariff
525 property. Any changes made under this paragraph to terms
526 and conditions for the securitized utility tariff bonds
527 shall be in conformance with the financing order.

528 (h) As the actual structure and pricing of the
529 securitized utility tariff bonds will be unknown at the time
530 the financing order is issued, prior to the issuance of each
531 series of bonds, an issuance advice letter shall be provided
532 to the commission by the electrical corporation following
533 the determination of the final terms of such series of bonds

534 no later than one day after the pricing of the securitized
535 utility tariff bonds. The commission shall have the
536 authority to designate a representative or representatives
537 from commission staff, who may be advised by a financial
538 advisor or advisors contracted with the commission, to
539 provide input to the electrical corporation and collaborate
540 with the electrical corporation in all facets of the process
541 undertaken by the electrical corporation to place the
542 securitized utility tariff bonds to market so the
543 commission's representative or representatives can provide
544 the commission with an opinion on the reasonableness of the
545 pricing, terms, and conditions of the securitized utility
546 tariff bonds on an expedited basis. Neither the designated
547 representative or representatives from the commission staff
548 nor one or more financial advisors advising commission staff
549 shall have authority to direct how the electrical
550 corporation places the bonds to market although they shall
551 be permitted to attend all meetings convened by the
552 electrical corporation to address placement of the bonds to
553 market. The form of such issuance advice letter shall be
554 included in the financing order and shall indicate the final
555 structure of the securitized utility tariff bonds and
556 provide the best available estimate of total ongoing
557 financing costs. The issuance advice letter shall report
558 the initial securitized utility tariff charges and other
559 information specific to the securitized utility tariff bonds
560 to be issued, as the commission may require. Unless an
561 earlier date is specified in the financing order, the
562 electrical corporation may proceed with the issuance of the
563 securitized utility tariff bonds unless, prior to noon on
564 the fourth business day after the commission receives the
565 issuance advice letter, the commission issues a disapproval

566 letter directing that the bonds as proposed shall not be
567 issued and the basis for that disapproval. The financing
568 order may provide such additional provisions relating to the
569 issuance advice letter process as the commission considers
570 appropriate and as are not inconsistent with this section.

571 (4) (a) In performing the responsibilities of this
572 section in connection with the issuance of a financing
573 order, approving the petition, an order approving the
574 petition subject to conditions, or an order rejecting the
575 petition, the commission shall undertake due diligence as it
576 deems appropriate prior to the issuance of the order
577 regarding the petition pursuant to which the commission may
578 request additional information from the electrical
579 corporation and may engage one or more financial advisors,
580 one or more consultants, and counsel as the commission deems
581 necessary. Any financial advisor or advisors, counsel, and
582 consultants engaged by the commission shall have a fiduciary
583 duty with respect to the proposed issuance of securitized
584 utility bonds solely to the commission. All expenses
585 associated with such services shall be included as part of
586 the financing costs of the securitized utility tariff bonds
587 and shall be included in the securitized utility tariff
588 charge.

589 (b) If an electrical corporation's petition for a
590 financing order is denied or withdrawn, or for any reason
591 securitized utility tariff bonds are not issued, any costs
592 of retaining one or more financial advisors, one or more
593 consultants, and counsel on behalf of the commission shall
594 be paid by the petitioning electrical corporation and shall
595 be eligible for full recovery, including carrying costs, if
596 approved by the commission in the electrical corporation's
597 future rates.

598 (5) At the request of an electrical corporation, the
599 commission may commence a proceeding and issue a subsequent
600 financing order that provides for refinancing, retiring, or
601 refunding securitized utility tariff bonds issued pursuant
602 to the original financing order if the commission finds that
603 the subsequent financing order satisfies all of the criteria
604 specified in this section for a financing order. Effective
605 upon retirement of the refunded securitized utility tariff
606 bonds and the issuance of new securitized utility tariff
607 bonds, the commission shall adjust the related securitized
608 utility tariff charges accordingly.

609 (6) (a) A financing order remains in effect and
610 securitized utility tariff property under the financing
611 order continues to exist until securitized utility tariff
612 bonds issued pursuant to the financing order have been paid
613 in full or defeased and, in each case, all commission-
614 approved financing costs of such securitized utility tariff
615 bonds have been recovered in full.

616 (b) A financing order issued to an electrical
617 corporation remains in effect and unabated notwithstanding
618 the reorganization, bankruptcy, or other insolvency
619 proceedings, merger, or sale of the electrical corporation
620 or its successors or assignees.

621 3. (1) The commission may not, in exercising its
622 powers and carrying out its duties regarding any matter
623 within its authority, consider the securitized utility
624 tariff bonds issued pursuant to a financing order to be the
625 debt of the electrical corporation other than for federal
626 and state income tax purposes, consider the securitized
627 utility tariff charges paid under the financing order to be
628 the revenue of the electrical corporation for any purpose,
629 consider the securitized utility tariff costs or financing

630 costs specified in the financing order to be the costs of
631 the electrical corporation, nor may the commission determine
632 any action taken by an electrical corporation which is
633 consistent with the financing order to be unjust or
634 unreasonable, and section 386.300 shall not apply to the
635 issuance of securitized utility tariff bonds.

636 (2) Securitized utility tariff charges shall not be
637 utilized or accounted for in determining the electrical
638 corporation's average overall rate, as defined in section
639 393.1655 and as used to determine the maximum retail rate
640 impact limitations provided for by subsections 3 and 4 of
641 section 393.1655.

642 (3) No electrical corporation is required to file a
643 petition for a financing order under this section or
644 otherwise utilize this section. An electrical corporation's
645 decision not to file a petition for a financing order under
646 this section shall not be admissible in any commission
647 proceeding nor shall it be otherwise utilized or relied on
648 by the commission in any proceeding respecting the
649 electrical corporation's rates or its accounting, including,
650 without limitation, any general rate proceeding, fuel
651 adjustment clause docket, or proceedings relating to
652 accounting authority, whether initiated by the electrical
653 corporation or otherwise. The commission may not order or
654 otherwise directly or indirectly require an electrical
655 corporation to use securitized utility tariff bonds to
656 recover securitized utility tariff costs or to finance any
657 project, addition, plant, facility, extension, capital
658 improvement, equipment, or any other expenditure.

659 (4) The commission may not refuse to allow an
660 electrical corporation to recover securitized utility tariff
661 costs in an otherwise permissible fashion, or refuse or

662 condition authorization or approval of the issuance and sale
663 by an electrical corporation of securities or the assumption
664 by the electrical corporation of liabilities or obligations,
665 because of the potential availability of securitized utility
666 tariff bond financing.

667 (5) After the issuance of a financing order with or
668 without conditions, the electrical corporation retains sole
669 discretion regarding whether to cause the securitized
670 utility tariff bonds to be issued, including the right to
671 defer or postpone such sale, assignment, transfer, or
672 issuance. Nothing shall prevent the electrical corporation
673 from abandoning the issuance of securitized utility tariff
674 bonds under the financing order by filing with the
675 commission a statement of abandonment and the reasons
676 therefor; provided, that the electrical corporation's
677 abandonment decision shall not be deemed imprudent because
678 of the potential availability of securitized utility tariff
679 bond financing; and provided further, that an electrical
680 corporation's decision to abandon issuance of such bonds may
681 be raised by any party, including the commission, as a
682 reason the commission should not authorize, or should
683 modify, the rate-making treatment proposed by the electrical
684 corporation of the costs associated with the electric
685 generating facility that was the subject of a petition under
686 this section that would have been securitized as energy
687 transition costs had such abandonment decision not been
688 made, but only if the electrical corporation requests
689 nonstandard plant retirement treatment of such costs for
690 rate-making purposes.

691 (6) The commission may not, directly or indirectly,
692 utilize or consider the debt reflected by the securitized
693 utility tariff bonds in establishing the electrical

694 corporation's capital structure used to determine any
695 regulatory matter, including but not limited to the
696 electrical corporation's revenue requirement used to set its
697 rates.

698 (7) The commission may not, directly or indirectly,
699 consider the existence of securitized utility tariff bonds
700 or the potential use of securitized utility tariff bond
701 financing proceeds in determining the electrical
702 corporation's authorized rate of return used to determine
703 the electrical corporation's revenue requirement used to set
704 its rates.

705 4. The electric bills of an electrical corporation
706 that has obtained a financing order and caused securitized
707 utility tariff bonds to be issued shall comply with the
708 provisions of this subsection; however, the failure of an
709 electrical corporation to comply with this subsection does
710 not invalidate, impair, or affect any financing order,
711 securitized utility tariff property, securitized utility
712 tariff charge, or securitized utility tariff bonds. The
713 electrical corporation shall do the following:

714 (1) Explicitly reflect that a portion of the charges
715 on such bill represents securitized utility tariff charges
716 approved in a financing order issued to the electrical
717 corporation and, if the securitized utility tariff property
718 has been transferred to an assignee, shall include a
719 statement to the effect that the assignee is the owner of
720 the rights to securitized utility tariff charges and that
721 the electrical corporation or other entity, if applicable,
722 is acting as a collection agent or servicer for the
723 assignee. The tariff applicable to customers shall indicate
724 the securitized utility tariff charge and the ownership of
725 the charge;

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

729 5. (1) (a) All securitized utility tariff property
730 that is specified in a financing order constitutes an
731 existing, present intangible property right or interest
732 therein, notwithstanding that the imposition and collection
733 of securitized utility tariff charges depends on the
734 electrical corporation, to which the financing order is
735 issued, performing its servicing functions relating to the
736 collection of securitized utility tariff charges and on
737 future electricity consumption. The property exists:

738 a. Regardless of whether or not the revenues or
739 proceeds arising from the property have been billed, have
740 accrued, or have been collected; and

741 b. Notwithstanding the fact that the value or amount
742 of the property is dependent on the future provision of
743 service to customers by the electrical corporation or its
744 successors or assignees and the future consumption of
745 electricity by customers.

746 (b) Securitized utility tariff property specified in a
747 financing order exists until securitized utility tariff
748 bonds issued pursuant to the financing order are paid in
749 full and all financing costs and other costs of such
750 securitized utility tariff bonds have been recovered in full.

751 (c) All or any portion of securitized utility tariff
752 property specified in a financing order issued to an
753 electrical corporation may be transferred, sold, conveyed,
754 or assigned to a successor or assignee that is wholly owned,
755 directly or indirectly, by the electrical corporation and
756 created for the limited purpose of acquiring, owning, or
757 administering securitized utility tariff property or issuing

758 securitized utility tariff bonds under the financing order.
759 All or any portion of securitized utility tariff property
760 may be pledged to secure securitized utility tariff bonds
761 issued pursuant to the financing order, amounts payable to
762 financing parties and to counterparties under any ancillary
763 agreements, and other financing costs. Any transfer, sale,
764 conveyance, assignment, grant of a security interest in or
765 pledge of securitized utility tariff property by an
766 electrical corporation, or an affiliate of the electrical
767 corporation, to an assignee, to the extent previously
768 authorized in a financing order, does not require the prior
769 consent and approval of the commission.

770 (d) If an electrical corporation defaults on any
771 required remittance of securitized utility tariff charges
772 arising from securitized utility tariff property specified
773 in a financing order, a court, upon application by an
774 interested party, and without limiting any other remedies
775 available to the applying party, shall order the
776 sequestration and payment of the revenues arising from the
777 securitized utility tariff property to the financing parties
778 or their assignees. Any such financing order remains in
779 full force and effect notwithstanding any reorganization,
780 bankruptcy, or other insolvency proceedings with respect to
781 the electrical corporation or its successors or assignees.

782 (e) The interest of a transferee, purchaser, acquirer,
783 assignee, or pledgee in securitized utility tariff property
784 specified in a financing order issued to an electrical
785 corporation, and in the revenue and collections arising from
786 that property, is not subject to setoff, counterclaim,
787 surcharge, or defense by the electrical corporation or any
788 other person or in connection with the reorganization,

789 bankruptcy, or other insolvency of the electrical
790 corporation or any other entity.

791 (f) Any successor to an electrical corporation,
792 whether pursuant to any reorganization, bankruptcy, or other
793 insolvency proceeding or whether pursuant to any merger or
794 acquisition, sale, or other business combination, or
795 transfer by operation of law, as a result of electrical
796 corporation restructuring or otherwise, shall perform and
797 satisfy all obligations of, and have the same rights under a
798 financing order as, the electrical corporation under the
799 financing order in the same manner and to the same extent as
800 the electrical corporation, including collecting and paying
801 to the person entitled to receive the revenues, collections,
802 payments, or proceeds of the securitized utility tariff
803 property. Nothing in this section is intended to limit or
804 impair any authority of the commission concerning the
805 transfer or succession of interests of public utilities.

806 (g) Securitized utility tariff bonds shall be
807 nonrecourse to the credit or any assets of the electrical
808 corporation other than the securitized utility tariff
809 property as specified in the financing order and any rights
810 under any ancillary agreement.

811 (2) (a) The creation, perfection, priority, and
812 enforcement of any security interest in securitized utility
813 tariff property to secure the repayment of the principal and
814 interest and other amounts payable in respect of securitized
815 utility tariff bonds, amounts payable under any ancillary
816 agreement and other financing costs are governed by this
817 section and not by the provisions of the code, except as
818 otherwise provided in this section.

819 (b) A security interest in securitized utility tariff
820 property is created, valid, and binding at the later of the
821 time:

822 a. The financing order is issued;

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

825 c. The debtor has rights in such securitized utility
826 tariff property or the power to transfer rights in such
827 securitized utility tariff property; or

828 d. Value is received for the securitized utility
829 tariff property.

830 The description of securitized utility tariff property in a
831 security agreement is sufficient if the description refers
832 to this section and the financing order creating the
833 securitized utility tariff property. A security interest
834 shall attach as provided in this paragraph without any
835 physical delivery of collateral or other act.

836 (c) Upon the filing of a financing statement with the
837 office of the secretary of state as provided in this
838 section, a security interest in securitized utility tariff
839 property shall be perfected against all parties having
840 claims of any kind in tort, contract, or otherwise against
841 the person granting the security interest, and regardless of
842 whether the parties have notice of the security interest.
843 Without limiting the foregoing, upon such filing a security
844 interest in securitized utility tariff property shall be
845 perfected against all claims of lien creditors, and shall
846 have priority over all competing security interests and
847 other claims other than any security interest previously
848 perfected in accordance with this section.

849 (d) The priority of a security interest in securitized
850 utility tariff property is not affected by the commingling
851 of securitized utility tariff charges with other amounts.
852 Any pledgee or secured party shall have a perfected security
853 interest in the amount of all securitized utility tariff
854 charges that are deposited in any cash or deposit account of
855 the qualifying electrical corporation in which securitized
856 utility tariff charges have been commingled with other funds
857 and any other security interest that may apply to those
858 funds shall be terminated when they are transferred to a
859 segregated account for the assignee or a financing party.

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

864 (f) If a default occurs under the securitized utility
865 tariff bonds that are secured by a security interest in
866 securitized utility tariff property, the financing parties
867 or their representatives may exercise the rights and
868 remedies available to a secured party under the code,
869 including the rights and remedies available under part 6 of
870 article 9 of the code. The commission may also order
871 amounts arising from securitized utility tariff charges be
872 transferred to a separate account for the financing parties'
873 benefit, to which their lien and security interest shall
874 apply. On application by or on behalf of the financing
875 parties, the circuit court for the county or city in which
876 the electrical corporation's headquarters is located shall
877 order the sequestration and payment to them of revenues
878 arising from the securitized utility tariff charges.

879 (3) (a) Any sale, assignment, or other transfer of
880 securitized utility tariff property shall be an absolute

881 transfer and true sale of, and not a pledge of or secured
882 transaction relating to, the seller's right, title, and
883 interest in, to, and under the securitized utility tariff
884 property if the documents governing the transaction
885 expressly state that the transaction is a sale or other
886 absolute transfer other than for federal and state income
887 tax purposes. For all purposes other than federal and state
888 income tax purposes, the parties' characterization of a
889 transaction as a sale of an interest in securitized utility
890 tariff property shall be conclusive that the transaction is
891 a true sale and that ownership has passed to the party
892 characterized as the purchaser, regardless of whether the
893 purchaser has possession of any documents evidencing or
894 pertaining to the interest. A sale or similar outright
895 transfer of an interest in securitized utility tariff
896 property may occur only when all of the following have
897 occurred:

- 898 a. The financing order creating the securitized
899 utility tariff property has become effective;
- 900 b. The documents evidencing the transfer of
901 securitized utility tariff property have been executed by
902 the assignor and delivered to the assignee; and
- 903 c. Value is received for the securitized utility
904 tariff property.

905 After such a transaction, the securitized utility tariff
906 property is not subject to any claims of the transferor or
907 the transferor's creditors, other than creditors holding a
908 prior security interest in the securitized utility tariff
909 property perfected in accordance with this section.

910 (b) The characterization of the sale, assignment, or
911 other transfer as an absolute transfer and true sale and the

912 corresponding characterization of the property interest of
913 the purchaser shall not be affected or impaired by the
914 occurrence of any of the following factors:

915 a. Commingling of securitized utility tariff charges
916 with other amounts;

917 b. The retention by the seller of (i) a partial or
918 residual interest, including an equity interest, in the
919 securitized utility tariff property, whether direct or
920 indirect, or whether subordinate or otherwise, or (ii) the
921 right to recover costs associated with taxes, franchise
922 fees, or license fees imposed on the collection of
923 securitized utility tariff charges;

924 c. Any recourse that the purchaser may have against
925 the seller;

926 d. Any indemnification rights, obligations, or
927 repurchase rights made or provided by the seller;

928 e. The obligation of the seller to collect securitized
929 utility tariff charges on behalf of an assignee;

930 f. The transferor acting as the servicer of the
931 securitized utility tariff charges or the existence of any
932 contract that authorizes or requires the electrical
933 corporation, to the extent that any interest in securitized
934 utility tariff property is sold or assigned, to contract
935 with the assignee or any financing party that it will
936 continue to operate its system to provide service to its
937 customers, will collect amounts in respect of the
938 securitized utility tariff charges for the benefit and
939 account of such assignee or financing party, and will
940 account for and remit such amounts to or for the account of
941 such assignee or financing party;

942 g. The treatment of the sale, conveyance, assignment,
943 or other transfer for tax, financial reporting, or other
944 purposes;

945 h. The granting or providing to bondholders a
946 preferred right to the securitized utility tariff property
947 or credit enhancement by the electrical corporation or its
948 affiliates with respect to such securitized utility tariff
949 bonds;

950 i. Any application of the formula-based true-up
951 mechanism as provided in this section.

952 (c) Any right that an electrical corporation has in
953 the securitized utility tariff property before its pledge,
954 sale, or transfer or any other right created under this
955 section or created in the financing order and assignable
956 under this section or assignable pursuant to a financing
957 order is property in the form of a contract right or a chose
958 in action. Transfer of an interest in securitized utility
959 tariff property to an assignee is enforceable only upon the
960 later of:

961 a. The issuance of a financing order;

962 b. The assignor having rights in such securitized
963 utility tariff property or the power to transfer rights in
964 such securitized utility tariff property to an assignee;

965 c. The execution and delivery by the assignor of
966 transfer documents in connection with the issuance of
967 securitized utility tariff bonds; and

968 d. The receipt of value for the securitized utility
969 tariff property.

970 An enforceable transfer of an interest in securitized
971 utility tariff property to an assignee is perfected against
972 all third parties, including subsequent judicial or other

973 lien creditors, when a notice of that transfer has been
974 given by the filing of a financing statement in accordance
975 with subsection 7 of this section. The transfer is
976 perfected against third parties as of the date of filing.

977 (d) The priority of a transfer perfected under this
978 section is not impaired by any later modification of the
979 financing order or securitized utility tariff property or by
980 the commingling of funds arising from securitized utility
981 tariff property with other funds. Any other security
982 interest that may apply to those funds, other than a
983 security interest perfected under this section, is
984 terminated when they are transferred to a segregated account
985 for the assignee or a financing party. If securitized
986 utility tariff property has been transferred to an assignee
987 or financing party, any proceeds of that property shall be
988 held in trust for the assignee or financing party.

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

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

996 b. A perfected interest or right of an assignee has
997 priority over a conflicting unperfected interest or right of
998 an assignee;

999 c. A perfected interest or right of an assignee has
1000 priority over a person who becomes a lien creditor after the
1001 perfection of such assignee's interest or right.

1002 6. The description of securitized utility tariff
1003 property being transferred to an assignee in any sale
1004 agreement, purchase agreement, or other transfer agreement,

1005 granted or pledged to a pledgee in any security agreement,
1006 pledge agreement, or other security document, or indicated
1007 in any financing statement is only sufficient if such
1008 description or indication refers to the financing order that
1009 created the securitized utility tariff property and states
1010 that the agreement or financing statement covers all or part
1011 of the property described in the financing order. This
1012 section applies to all purported transfers of, and all
1013 purported grants or liens or security interests in,
1014 securitized utility tariff property, regardless of whether
1015 the related sale agreement, purchase agreement, other
1016 transfer agreement, security agreement, pledge agreement, or
1017 other security document was entered into, or any financing
1018 statement was filed.

1019 7. The secretary of state shall maintain any financing
1020 statement filed to perfect a sale or other transfer of
1021 securitized utility tariff property and any security
1022 interest in securitized utility tariff property under this
1023 section in the same manner that the secretary of state
1024 maintains financing statements filed under the code to
1025 perfect a security interest in collateral owned by a
1026 transmitting utility. Except as otherwise provided in this
1027 section, all financing statements filed pursuant to this
1028 section shall be governed by the provisions regarding
1029 financing statements and the filing thereof under the code,
1030 including part 5 of article 9 of the code. A security
1031 interest in securitized utility tariff property may be
1032 perfected only by the filing of a financing statement in
1033 accordance with this section, and no other method of
1034 perfection shall be effective. Notwithstanding any
1035 provision of the code to the contrary, a financing statement
1036 filed pursuant to this section is effective until a

1037 termination statement is filed under the code, and no
1038 continuation statement need be filed to maintain its
1039 effectiveness. A financing statement filed pursuant to this
1040 section may indicate that the debtor is a transmitting
1041 utility, and without regard to whether the debtor is an
1042 electrical corporation, an assignee or otherwise qualifies
1043 as a transmitting utility under the code, but the failure to
1044 make such indication shall not impair the duration and
1045 effectiveness of the financing statement.

1046 8. The law governing the validity, enforceability,
1047 attachment, perfection, priority, and exercise of remedies
1048 with respect to the transfer of an interest or right or the
1049 pledge or creation of a security interest in any securitized
1050 utility tariff property shall be the laws of this state.

1051 9. Neither the state nor its political subdivisions
1052 are liable on any securitized utility tariff bonds, and the
1053 bonds are not a debt or a general obligation of the state or
1054 any of its political subdivisions, agencies, or
1055 instrumentalities, nor are they special obligations or
1056 indebtedness of the state or any agency or political
1057 subdivision. An issue of securitized utility tariff bonds
1058 does not, directly, indirectly, or contingently, obligate
1059 the state or any agency, political subdivision, or
1060 instrumentality of the state to levy any tax or make any
1061 appropriation for payment of the securitized utility tariff
1062 bonds, other than in their capacity as consumers of
1063 electricity. All securitized utility tariff bonds shall
1064 contain on the face thereof a statement to the following
1065 effect: "Neither the full faith and credit nor the taxing
1066 power of the state of Missouri is pledged to the payment of
1067 the principal of, or interest on, this bond."

1068 10. All of the following entities may legally invest
1069 any sinking funds, moneys, or other funds in securitized
1070 utility tariff bonds:

1071 (1) Subject to applicable statutory restrictions on
1072 state or local investment authority, the state, units of
1073 local government, political subdivisions, public bodies, and
1074 public officers, except for members of the commission, the
1075 commission's technical advisory and other staff, or
1076 employees of the office of the public counsel;

1077 (2) Banks and bankers, savings and loan associations,
1078 credit unions, trust companies, savings banks and
1079 institutions, investment companies, insurance companies,
1080 insurance associations, and other persons carrying on a
1081 banking or insurance business;

1082 (3) Personal representatives, guardians, trustees, and
1083 other fiduciaries;

1084 (4) All other persons authorized to invest in bonds or
1085 other obligations of a similar nature.

1086 11. (1) The state and its agencies, including the
1087 commission, pledge and agree with bondholders, the owners of
1088 the securitized utility tariff property, and other financing
1089 parties that the state and its agencies will not take any
1090 action listed in this subdivision. This subdivision does
1091 not preclude limitation or alteration if full compensation
1092 is made by law for the full protection of the securitized
1093 utility tariff charges collected pursuant to a financing
1094 order and of the bondholders and any assignee or financing
1095 party entering into a contract with the electrical
1096 corporation. The prohibited actions are as follows:

1097 (a) Alter the provisions of this section, which
1098 authorize the commission to create an irrevocable contract
1099 right or chose in action by the issuance of a financing

1100 order, to create securitized utility tariff property, and
1101 make the securitized utility tariff charges imposed by a
1102 financing order irrevocable, binding, or nonbypassable
1103 charges for all existing and future retail customers of the
1104 electrical corporation except its existing special contract
1105 customers;

1106 (b) Take or permit any action that impairs or would
1107 impair the value of securitized utility tariff property or
1108 the security for the securitized utility tariff bonds or
1109 revises the securitized utility tariff costs for which
1110 recovery is authorized;

1111 (c) In any way impair the rights and remedies of the
1112 bondholders, assignees, and other financing parties;

1113 (d) Except for changes made pursuant to the formula-
1114 based true-up mechanism authorized under this section,
1115 reduce, alter, or impair securitized utility tariff charges
1116 that are to be imposed, billed, charged, collected, and
1117 remitted for the benefit of the bondholders, any assignee,
1118 and any other financing parties until any and all principal,
1119 interest, premium, financing costs and other fees, expenses,
1120 or charges incurred, and any contracts to be performed, in
1121 connection with the related securitized utility tariff bonds
1122 have been paid and performed in full.

1123 (2) Any person or entity that issues securitized
1124 utility tariff bonds may include the language specified in
1125 this subsection in the securitized utility tariff bonds and
1126 related documentation.

1127 12. An assignee or financing party is not an
1128 electrical corporation or person providing electric service
1129 by virtue of engaging in the transactions described in this
1130 section.

1131 13. If there is a conflict between this section and
1132 any other law regarding the attachment, assignment, or
1133 perfection, or the effect of perfection, or priority of,
1134 assignment or transfer of, or security interest in
1135 securitized utility tariff property, this section shall
1136 govern.

1137 14. If any provision of this section is held invalid
1138 or is invalidated, superseded, replaced, repealed, or
1139 expires for any reason, that occurrence does not affect the
1140 validity of any action allowed under this section which is
1141 taken by an electrical corporation, an assignee, a financing
1142 party, a collection agent, or a party to an ancillary
1143 agreement; and any such action remains in full force and
1144 effect with respect to all securitized utility tariff bonds
1145 issued or authorized in a financing order issued under this
1146 section before the date that such provision is held invalid
1147 or is invalidated, superseded, replaced, or repealed, or
1148 expires for any reason.

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