

SENATE SUBSTITUTE  
FOR  
SENATE COMMITTEE SUBSTITUTE  
FOR  
SENATE BILL NO. 756  
AN ACT

To repeal sections 34.045, 386.266, 393.1400, 393.1640, 393.1655, and 393.1700, RSMo, and to enact in lieu thereof eight new sections relating to public utilities.

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

Section A. Sections 34.045, 386.266, 393.1400, 393.1640, 2 393.1655, and 393.1700, RSMo, are repealed and eight new 3 sections enacted in lieu thereof, to be known as sections 4 34.045, 386.266, 393.1275, 393.1400, 393.1640, 393.1655, 5 393.1656, and 393.1700, to read as follows:

34.045. 1. The commissioner of administration may 2 waive the requirement of competitive bids or proposals for 3 supplies when the commissioner of administration has 4 determined that there exists a threat to life, property, 5 public health or public safety or when immediate expenditure 6 is necessary for repairs to state property in order to 7 protect against further loss of, or damage to, state 8 property, to prevent or minimize serious disruption in state 9 services or to ensure the integrity of state records.

10 Emergency procurements shall be made with as much 11 competition as is practicable under the circumstances.

12 2. The commissioner of administration shall waive the 13 requirement of competitive bids or proposals for the 14 contracting of legal counsel, financial advisors, and other 15 consultants as necessary to effectuate the purposes of 16 section 393.1700.

386.266. 1. Subject to the requirements of this  
2 section, any electrical corporation may make an application  
3 to the commission to approve rate schedules authorizing an  
4 interim energy charge, or periodic rate adjustments outside  
5 of general rate proceedings to reflect increases and  
6 decreases in its prudently incurred fuel and purchased-power  
7 costs, including transportation. The commission may, in  
8 accordance with existing law, include in such rate schedules  
9 features designed to provide the electrical corporation with  
10 incentives to improve the efficiency and cost-effectiveness  
11 of its fuel and purchased-power procurement activities.

12 2. Subject to the requirements of this section, any  
13 electrical, gas, or water corporation may make an  
14 application to the commission to approve rate schedules  
15 authorizing periodic rate adjustments outside of general  
16 rate proceedings to reflect increases and decreases in its  
17 prudently incurred costs, whether capital or expense, to  
18 comply with any federal, state, or local environmental law,  
19 regulation, or rule. Any rate adjustment made under such  
20 rate schedules shall not exceed an annual amount equal to  
21 two and one-half percent of the electrical, gas, or water  
22 corporation's Missouri gross jurisdictional revenues,  
23 excluding gross receipts tax, sales tax and other similar  
24 pass-through taxes not included in tariffed rates, for  
25 regulated services as established in the utility's most  
26 recent general rate case or complaint proceeding. In  
27 addition to the rate adjustment, the electrical, gas, or  
28 water corporation shall be permitted to collect any  
29 applicable gross receipts tax, sales tax, or other similar  
30 pass-through taxes, and such taxes shall not be counted  
31 against the two and one-half percent rate adjustment cap.  
32 Any costs not recovered as a result of the annual two and  
33 one-half percent limitation on rate adjustments may be

34 deferred, at a carrying cost each month equal to the  
35 utilities net of tax cost of capital, for recovery in a  
36 subsequent year or in the corporation's next general rate  
37 case or complaint proceeding.

38 3. Subject to the requirements of this section, any  
39 gas or electrical corporation may make an application to the  
40 commission to approve rate schedules authorizing periodic  
41 rate adjustments outside of general rate proceedings to  
42 adjust rates of customers in eligible customer classes to  
43 account for the impact on utility revenues of increases or  
44 decreases in residential and commercial customer usage due  
45 to variations in either weather, conservation, or both. [No  
46 electrical corporation shall make an application to the  
47 commission under this subsection if such corporation has  
48 provided notice to the commission under subsection 5 of  
49 section 393.1400.] For purposes of this section: for  
50 electrical corporations, "eligible customer classes" means  
51 the residential class and classes that are not demand  
52 metered; and for gas corporations, "eligible customer  
53 classes" means the residential class and the smallest  
54 general service class. As used in this subsection,  
55 "revenues" means the revenues recovered through base rates,  
56 and does not include revenues collected through a rate  
57 adjustment mechanism authorized by this section or any other  
58 provisions of law. This subsection shall apply to  
59 electrical corporations beginning January 1, 2019, and shall  
60 expire for electrical corporations on January 1, 2029.

61 4. Subject to the requirements of this section, a  
62 water corporation with more than eight thousand Missouri  
63 retail customers may make an application to the commission  
64 to approve rate schedules authorizing periodic rate  
65 adjustments outside of general rate proceedings to ensure  
66 revenues billed by such water corporation for regulated

67 services equal the revenue requirement for regulated  
68 services as established in the water corporation's most  
69 recent general rate proceeding or complaint proceeding,  
70 excluding any other commission-approved surcharges and gross  
71 receipts tax, sales tax, and other similar pass-through  
72 taxes not included in tariffed rates, due to any revenue  
73 variation resulting from increases or decreases in  
74 residential, commercial, public authority, and sale for  
75 resale usage.

76 5. The commission shall have the power to approve,  
77 modify, or reject adjustment mechanisms submitted under  
78 subsections 1 to 4 of this section only after providing the  
79 opportunity for a full hearing in a general rate proceeding,  
80 including a general rate proceeding initiated by complaint.  
81 The commission may approve such rate schedules after  
82 considering all relevant factors which may affect the costs  
83 or overall rates and charges of the corporation, provided  
84 that it finds that the adjustment mechanism set forth in the  
85 schedules:

86 (1) Is reasonably designed to provide the utility with  
87 a sufficient opportunity to earn a fair return on equity;

88 (2) Includes provisions for an annual true-up which  
89 shall accurately and appropriately remedy any over- or under-  
90 collections, including interest at the utility's short-term  
91 borrowing rate, through subsequent rate adjustments or  
92 refunds;

93 (3) In the case of an adjustment mechanism submitted  
94 under subsections 1 and 2 of this section, includes  
95 provisions requiring that the utility file a general rate  
96 case with the effective date of new rates to be no later  
97 than four years after the effective date of the commission  
98 order implementing the adjustment mechanism. However, with  
99 respect to each mechanism, the four-year period shall not

100 include any periods in which the utility is prohibited from  
101 collecting any charges under the adjustment mechanism, or  
102 any period for which charges collected under the adjustment  
103 mechanism must be fully refunded. In the event a court  
104 determines that the adjustment mechanism is unlawful and all  
105 moneys collected thereunder are fully refunded, the utility  
106 shall be relieved of any obligation under that adjustment  
107 mechanism to file a rate case;

108 (4) In the case of an adjustment mechanism submitted  
109 under subsection 1 or 2 of this section, includes provisions  
110 for prudence reviews of the costs subject to the adjustment  
111 mechanism no less frequently than at eighteen-month  
112 intervals, and shall require refund of any imprudently  
113 incurred costs plus interest at the utility's short-term  
114 borrowing rate.

115 6. Once such an adjustment mechanism is approved by  
116 the commission under this section, it shall remain in effect  
117 until such time as the commission authorizes the  
118 modification, extension, or discontinuance of the mechanism  
119 in a general rate case or complaint proceeding.

120 7. Any amounts charged under any adjustment mechanism  
121 approved by the commission under this section shall be  
122 separately disclosed on each customer bill.

123 8. The commission may take into account any change in  
124 business risk to the corporation resulting from  
125 implementation of the adjustment mechanism in setting the  
126 corporation's allowed return in any rate proceeding, in  
127 addition to any other changes in business risk experienced  
128 by the corporation.

129 9. In the event the commission lawfully approves an  
130 incentive- or performance-based plan, such plan shall be  
131 binding on the commission for the entire term of the plan.

132 This subsection shall not be construed to authorize or  
133 prohibit any incentive- or performance-based plan.

134 10. Prior to August 28, 2005, for subsections 1 to 3  
135 of this section, and upon August 28, 2018, for subsection 4  
136 of this section, the commission shall have the authority to  
137 promulgate rules under the provisions of chapter 536 as it  
138 deems necessary, to govern the structure, content and  
139 operation of such rate adjustments, and the procedure for  
140 the submission, frequency, examination, hearing and approval  
141 of such rate adjustments. Any electrical, gas, or water  
142 corporation may apply for any adjustment mechanism under  
143 this section whether or not the commission has promulgated  
144 any such rules.

145 11. Nothing contained in this section shall be  
146 construed as affecting any existing adjustment mechanism,  
147 rate schedule, tariff, incentive plan, or other ratemaking  
148 mechanism currently approved and in effect.

149 12. Each of the provisions of this section is  
150 severable. In the event any provision or subsection of this  
151 section is deemed unlawful, all remaining provisions shall  
152 remain in effect.

153 13. The provisions of subsections 1 to 3 of this  
154 section shall take effect on January 1, 2006, and the  
155 commission shall have previously promulgated rules to  
156 implement the application process for any rate adjustment  
157 mechanism under subsections 1 to 3 of this section prior to  
158 the commission issuing an order for any such rate adjustment.

159 14. The public service commission shall appoint a task  
160 force, consisting of all interested parties, to study and  
161 make recommendations on the cost recovery and implementation  
162 of conservation and weatherization programs for electrical  
163 and gas corporations.

164           15. (1) Each public utility operating under a  
165 mechanism proposed and approved under subsection 3 of this  
166 section shall quarterly file a surveillance monitoring,  
167 consisting of five parts. Each part, except the rate-base  
168 quantifications report, shall contain information for the  
169 last twelve-month period and the last quarter data for total  
170 company electric operations and Missouri jurisdictional  
171 operations. Rate-base quantifications shall contain only  
172 information for the ending date of the period being reported.

173           (2) Part one of the surveillance monitoring report  
174 shall be the rate-base quantifications report. The  
175 quantification of rate-base items in part one shall be  
176 consistent with the methods or procedures used in the most  
177 recent rate proceeding unless otherwise specified. The  
178 report shall consist of specific rate-base quantifications  
179 of:

- 180           (a) Plant in service;
- 181           (b) Reserve for depreciation;
- 182           (c) Materials and supplies;
- 183           (d) Cash working capital;
- 184           (e) Fuel inventory, if applicable;
- 185           (f) Prepayments;
- 186           (g) Other regulatory assets;
- 187           (h) Customer advances;
- 188           (i) Customer deposits;
- 189           (j) Accumulated deferred income taxes;
- 190           (k) Any other item included in the electrical  
191 corporation's rate base in its most recent rate proceeding;
- 192           (l) Net operating income from part three; and
- 193           (m) Calculation of the overall return on rate base.

194           (3) Part two of the surveillance monitoring report  
195 shall be the capitalization quantifications report, which  
196 shall consist of specific capitalization quantifications of:

197 (a) Common stock equity (net);  
198 (b) Preferred stock, par or stated value outstanding;  
199 (c) Long-term debt, including current maturities;  
200 (d) Short-term debt; and  
201 (e) Weighted cost of capital, including component  
202 costs.

203 (4) Part three of the surveillance monitoring report  
204 shall be the income statement, which shall consist of an  
205 income statement containing specific quantification of:

206 (a) Operating revenues to include sales to industrial,  
207 commercial, and residential customers, sales for resale, and  
208 other components of total operating revenues;

209 (b) Operating and maintenance expenses for fuel  
210 expense, production expenses, purchased power energy and  
211 capacity, if applicable;

212 (c) Transmission expenses;

213 (d) Distribution expenses;

214 (e) Customer accounts expenses;

215 (f) Customer service and information expenses;

216 (g) Sales expenses;

217 (h) Administrative and general expenses;

218 (i) Depreciation, amortization, and decommissioning  
219 expense;

220 (j) Taxes other than income taxes;

221 (k) Income taxes; and

222 (l) Quantification of heating degree and cooling  
223 degree days, actual and normal.

224 (5) Part four of the surveillance monitoring report  
225 shall be the jurisdictional allocation factor report, which  
226 shall consist of a listing of jurisdictional allocation  
227 factors for the rate base, capitalization quantification  
228 reports, and income statement.



229 (6) Part five of the surveillance monitoring report  
230 shall be the financial data notes, which shall consist of  
231 notes to financial data including, but not limited to:

232 (a) Out of period adjustments;

233 (b) Specific quantification of material variances  
234 between actual and budget financial performance;

235 (c) Material variances between current twelve-month  
236 period and prior twelve-month period revenue;

237 (d) Expense level of items ordered by the commission  
238 to be tracked under the order establishing the rate  
239 adjustment mechanism;

240 (e) Budgeted capital projects; and

241 (f) Events that materially affect debt or equity  
242 surveillance components.

243 (7) This subsection shall expire on January 1, 2029.

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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

119 (6) Integration of smart appliances and devices;

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

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

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

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

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

153 5. This section shall only apply to any electrical  
154 corporation that has filed a notice with the commission of  
155 the electrical corporation's election to make the deferrals  
156 for which this section provides. [No electrical corporation  
157 shall file a notice with the commission under this  
158 subsection if such corporation has made an application under

159 subsection 3 of section 386.266, and such application has  
160 been approved.] An electrical corporation's election shall  
161 allow it to make the deferrals provided for by subsection 2  
162 of this section until December 31, [2023] 2033, unless the  
163 electrical corporation requests and the commission approves  
164 the continuation of such deferrals beyond that date and  
165 approves continuation of the discounts authorized by section  
166 393.1640 beyond that date as hereinafter provided. An  
167 electrical corporation that wishes to continue to make the  
168 deferrals provided for by subsection 2 of this section from  
169 January 1, [2024] 2034, through December 31, [2028] 2038,  
170 shall obtain the commission's approval to do so, shall be  
171 subject to the [compound annual growth rate limitations]  
172 revenue requirement impact cap set forth under section  
173 [393.1655] 393.1656, and shall also obtain the commission's  
174 approval to continue to provide the discounts authorized by  
175 section 393.1640 in a commission order issued on or before  
176 December 31, [2023] 2033. The commission shall have the  
177 authority to grant or deny such approval based upon the  
178 commission's evaluation of the costs and benefits of such  
179 continuation to electrical corporations and consumers, but  
180 shall not be authorized to condition such approval or  
181 otherwise modify the deferrals authorized by subsection 2 of  
182 this section, or the discounts authorized by section  
183 393.1640. In deciding whether to extend the program for an  
184 additional five years, the commission shall develop an  
185 objective analytical framework to determine whether there is  
186 a continuing need. The commission shall make a finding  
187 about whether there is a continuing need after hearing.  
188 Failure to obtain such commission approval shall not affect  
189 deferrals made through December 31, [2023] 2033, or the  
190 regulatory and ratemaking treatment of the regulatory assets  
191 arising from such deferrals as provided for by this section.

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

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

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

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

20           (3) The customer meets the criteria set forth in the  
21 electrical corporation's economic development rider tariff  
22 sheet, as approved by the commission, that are not  
23 inconsistent with the provisions of this subsection.] When  
24 the new load is reasonably projected to be at least three  
25 hundred kilowatts but not more than ten megawatts and have a



26 load factor of at least forty-five percent, the discount  
27 shall equal thirty-five percent and shall apply for five  
28 years, provided that if it is expected as of the date the  
29 discount is to commence that a thirty-five percent discount  
30 would produce revenues from the applicant's total bill that  
31 would not exceed the electrical corporation's variable cost  
32 to serve the applicant's account or accounts that are to  
33 receive the discount, the discount shall be determined so  
34 that the percentage discount, rounded to the nearest one  
35 percent, is expected, as of the date the discount percentage  
36 is determined, to provide revenues equal to one hundred  
37 twenty percent of the electrical corporation's variable cost  
38 to serve the applicant's account or accounts that are to  
39 receive the discount;

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

50 To obtain one of the discounts set forth in subdivision (1)  
51 or (2) of this subsection, the customer's load shall be  
52 incremental, net of any offsetting load reductions due to  
53 the termination of other accounts of the customer or an  
54 affiliate of the customer within twelve months prior to the  
55 commencement of service to the new load, the customer shall  
56 receive an economic development incentive from the local,  
57 regional, state, or federal government, or from an agency or  
58 program of any such government, in conjunction with the

59 incremental load, and the customer shall meet the criteria  
60 set forth in the electrical corporation's economic  
61 development rider tariff sheet, as approved by the  
62 commission, that are not inconsistent with the provisions of  
63 this subsection.

64 Unless otherwise provided for by the electrical  
65 corporation's tariff, the applicable discount shall be a  
66 percentage applied to all base-rate components of the bill.  
67 [The percentage shall be fixed for each year of service  
68 under the discount for a period of up to five years.  
69 Subject to the remaining provisions of this subsection, the  
70 average of the annual discount percentages shall equal forty  
71 percent and shall not be less than thirty percent nor more  
72 than fifty percent in any year.] The discount shall be  
73 applied to such incremental load from the date when the  
74 meter has been permanently set until the date that such  
75 incremental load no longer meets the criteria required to  
76 qualify for the discount, as determined under the provisions  
77 of subsection 2 of this section. An eligible customer shall  
78 also receive a ten percent discount of all base-rate  
79 components of the bill applied to such incremental load for  
80 an additional one year [after] period beyond the [initial]  
81 period during which the applicable discount [period ends]  
82 under subdivision (1) or (2) of this subsection applies if  
83 the electrical corporation determines that the customer is  
84 taking service from an under-utilized circuit. [In no event  
85 shall a customer receive a discount under this subsection  
86 after December 31, 2028.] The electrical corporation may  
87 include in its tariff additional or alternative terms and  
88 conditions to a customer's utilization of the discount,  
89 subject to approval of such terms and conditions by the  
90 commission. The customer, on forms supplied by the  
91 electrical corporation, shall apply for the applicable

92 discount provided for by this subsection at least ninety  
93 days prior to the date the customer requests that the  
94 incremental demand receive one of the discounts provided for  
95 by this subsection and shall enter into a written agreement  
96 with the electrical corporation reflecting the discount  
97 percentages and other pertinent details. If the incremental  
98 demand is not separately metered, the electrical  
99 corporation's determination of the incremental demand shall  
100 control. The electrical corporation shall verify the  
101 customer's incremental demand annually to determine  
102 continued qualification for the applicable discount.  
103 Notwithstanding the foregoing provisions of this subsection,  
104 the cents-per-kilowatt-hour realization resulting from  
105 application of any [such] discounted [rate] rates as  
106 calculated shall be higher than the electrical corporation's  
107 variable cost to serve such [accounts in aggregate]  
108 incremental demand and the applicable discounted rate also  
109 shall make a positive contribution to fixed costs associated  
110 with [such] service to such incremental demand. If in a  
111 subsequent general rate proceeding the commission determines  
112 that application of [such] a discounted rate is not adequate  
113 to cover the electrical corporation's variable cost to serve  
114 [such] the accounts in question and provide a positive  
115 contribution to fixed costs then the commission shall  
116 increase the rate for those accounts prospectively to the  
117 extent necessary to do so.

118 2. In each general rate proceeding concluded after  
119 August 28, [2018] 2022, the [reduced level of] difference in  
120 revenues [arising from] generated by applying the  
121 [application of] discounted rates provided for by  
122 [subsection 1 of] this section and the revenues that would  
123 have been generated without such discounts shall not be  
124 imputed into the electrical corporation's revenue

125 requirement. Instead, such revenue requirement shall be set  
126 using the revenues generated by such discounted rates and  
127 the impact of the discounts provided for by this section  
128 shall be allocated to all the electrical corporation's  
129 customer classes, including the classes with customers that  
130 qualify for discounts under this section[. This increase  
131 shall be implemented] through the application of a uniform  
132 percentage adjustment to the revenue requirement  
133 responsibility of all customer classes. To qualify for the  
134 discounted rates provided for in this section, [if  
135 incremental load is separately metered,] customers shall  
136 meet the applicable criteria within twenty-four months  
137 [after the date the meter is permanently set] of initially  
138 receiving discounts based on metering data for calendar  
139 months thirteen through twenty-four and annually  
140 thereafter. If such data indicates that the customer did  
141 not meet [the criteria] both of the three hundred kilowatt  
142 and forty-five or fifty-five percent load factor  
143 requirements for any applicable twelve-month period, it  
144 shall thereafter no longer qualify for [the] a discounted  
145 rate. For customers receiving service under subdivision (2)  
146 of subsection 1 of this section, if after the fourth year,  
147 the demand has not exceeded ten thousand kilowatts during  
148 any twelve-month period, the customer's qualification shall  
149 revert to subdivision (1) of subsection 1 of this section.  
150 The provisions of this section do not supersede or limit the  
151 ability of an electrical corporation to continue to utilize  
152 economic development or retention tariffs previously  
153 approved by the commission that are in effect on August 28,  
154 [2018] 2022. If, however, a customer is receiving any  
155 economic development or retention-related discounts as of  
156 the date it would otherwise qualify for a discount provided  
157 for by this section, the customer shall agree to relinquish

158 the prior discount concurrently with the date it begins to  
159 receive a discount under this section; otherwise, the  
160 customer shall not be eligible to receive any discount under  
161 this section. Customer demand existing at the time the  
162 customer begins to receive discounted rates under this  
163 section shall not constitute incremental demand. The  
164 discounted rates provided for by this section apply only to  
165 base-rate components, with the charges or credits arising  
166 from any rate adjustment mechanism authorized by law to be  
167 applied to customers qualifying for discounted rates under  
168 this section in the same manner as such rate adjustments  
169 would apply in the absence of this section.

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

174 4. This section shall expire on December 31, [2028]  
175 2038, provided, that unless the electrical corporation has  
176 timely obtained the order provided for by subsection 5 of  
177 section 393.1400, the electrical [corporation's customers]  
178 corporation shall not, after December 31, [2023] 2033, [no  
179 longer receive the discounts provided] enter into new  
180 contracts under this section.

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

11 corporation, or until December 31, 2028, if the commission  
12 has issued such an order with respect to the electrical  
13 corporation].

14 2. Notwithstanding any other provision of law and  
15 except as otherwise provided for by this section, an  
16 electrical corporation's base rates shall be held constant  
17 for a period starting on the date new base rates were  
18 established in the electrical corporation's last general  
19 rate proceeding concluded prior to the date the electrical  
20 corporation gave notice under subsection 5 of section  
21 393.1400 and ending on the third anniversary of that date,  
22 unless a force majeure event as determined by the commission  
23 occurs. Whether a force majeure event has occurred shall be  
24 subject to commission review and approval in a general rate  
25 proceeding, and shall not preclude the commission from  
26 reviewing the prudence of any revenue reductions or costs  
27 incurred during any proceeding to set rates. This  
28 subsection shall not affect the electrical corporation's  
29 ability to adjust its nonbase rates during the three-year  
30 period provided for in this subsection as authorized by its  
31 commission-approved rate adjustment mechanisms arising under  
32 section 386.266, 393.1030, or 393.1075, or as authorized by  
33 any other rate adjustment mechanism authorized by law.

34 3. This subsection shall apply to electrical  
35 corporations that have a general rate proceeding pending  
36 before the commission as of the later of February 1, 2018,  
37 or August 28, 2018. If the difference between (a) the  
38 electrical corporation's average overall rate at any point  
39 in time while this section applies to the electrical  
40 corporation, and (b) the electrical corporation's average  
41 overall rate as of the date new base rates are set in the  
42 electrical corporation's most recent general rate proceeding  
43 concluded prior to the date the electrical corporation gave

44 notice under section 393.1400, reflects a compound annual  
45 growth rate of more than three percent, the electrical  
46 corporation shall not recover any amount in excess of such  
47 three percent as a performance penalty.

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

65 5. If a change in any rates charged under a rate  
66 adjustment mechanism approved by the commission under  
67 sections 386.266 and 393.1030 would cause an electrical  
68 corporation's average overall rate to exceed the compound  
69 annual growth rate limitation set forth in subsection 3 or 4  
70 of this section, the electrical corporation shall reduce the  
71 rates charged under that rate adjustment mechanism in an  
72 amount sufficient to ensure that the compound annual growth  
73 rate limitation set forth in subsection 3 or 4 of this  
74 section is not exceeded due to the application of the rate  
75 charged under such mechanism and the performance penalties  
76 under such subsections are not triggered. Sums not

77 recovered under any such mechanism because of any reduction  
78 in rates under such a mechanism pursuant to this subsection  
79 shall be deferred to and included in the regulatory asset  
80 arising under section 393.1400 or, if applicable, under the  
81 regulatory and ratemaking treatment ordered by the  
82 commission under section 393.1400, and recovered through an  
83 amortization in base rates in the same manner as deferrals  
84 under that section or order are recovered in base rates.

85         6. If the difference between (a) the electrical  
86 corporation's class average overall rate at any point in  
87 time while this section applies to the electrical  
88 corporation, and (b) the electrical corporation's class  
89 average overall rate as of the date rates are set in the  
90 electrical corporation's most recent general rate proceeding  
91 concluded prior to the date the electrical corporation gave  
92 notice under subsection 5 of section 393.1400, reflects a  
93 compound annual growth rate of more than two percent for the  
94 large power service rate class, the class average overall  
95 rate shall increase by an amount so that the increase shall  
96 equal a compound annual growth rate of two percent over such  
97 period for such large power service rate class, with the  
98 reduced revenues arising from limiting the large power  
99 service class average overall rate increase to two percent  
100 to be allocated to all the electrical corporation's other  
101 customer classes through the application of a uniform  
102 percentage adjustment to the revenue requirement  
103 responsibility of all the other customer classes.

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

106         (1) "Average base rate", a rate calculated by dividing  
107 the total retail revenue requirement for all the electrical  
108 corporation's rate classes by the total sales volumes stated  
109 in kilowatt-hours for all such rate classes used to set



110 rates in the applicable general rate proceeding, exclusive  
111 of gross receipts tax, sales tax, and other similar pass-  
112 through taxes;

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

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

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

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

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

142 exclusive of gross receipts tax, sales tax, and other  
143 similar pass-through taxes;

144 (7) "Force majeure event", an event or circumstance  
145 that occurs as a result of a weather event, an act of God,  
146 war, terrorism, or other event which threatens the financial  
147 integrity of the electrical corporation that causes a  
148 reduction in revenues, an increase in the cost of providing  
149 electrical service, or some combination thereof, and the  
150 event has an associated fiscal impact on the electrical  
151 corporation's operations equal to three percent or greater  
152 of the total revenue requirement established in the  
153 electrical corporation's last general rate proceeding after  
154 taking into account the financial impact specified in  
155 section 393.137. Any force majeure event shall be subject  
156 to commission review and approval, and shall not preclude  
157 the commission from reviewing the prudence of any revenue  
158 reductions or costs incurred during any proceeding to set  
159 rates;

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

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

9 subsection 5 of section 393.1400 with respect to the  
10 electrical corporation, or until December 31, 2038, if the  
11 commission has issued such an order with respect to the  
12 electrical corporation.

13 2. That part of the electrical corporation's retail  
14 revenue requirement used to set the electrical corporation's  
15 base rates in each of the electrical corporation's general  
16 rate proceedings that are concluded on or after August 31,  
17 2023, that consists of revenue requirement arising from  
18 inclusion in rate base of the section 393.1400 regulatory  
19 asset balance shall not exceed the revenue requirement  
20 impact cap. If inclusion in rate base of the full balance  
21 of the subject section 393.1400 regulatory asset would cause  
22 the electrical corporation to exceed the revenue requirement  
23 impact cap, that part of the balance necessary to prevent  
24 inclusion of the full balance from causing an exceedance of  
25 the revenue requirement impact cap shall not be included in  
26 rate base and the section 393.1400 regulatory asset balance  
27 shall be reduced accordingly as a penalty.

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

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

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

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

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

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

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

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

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

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

16 assigns, sells, or transfers, other than as security, its  
17 interest in or right to securitized utility tariff property;

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

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

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

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

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

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

47 (b) Pretax costs that an electrical corporation has  
48 previously incurred related to the retirement or abandonment

49 of such an electric generating facility occurring before  
50 August 28, 2021;

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

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

55 (b) Any payment required under an ancillary agreement  
56 and any amount required to fund or replenish a reserve  
57 account or other accounts established under the terms of any  
58 indenture, ancillary agreement, or other financing documents  
59 pertaining to securitized utility tariff bonds;

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

176           (a) A description of the electric generating facility  
177 or facilities that the electrical corporation has retired or  
178 abandoned, or proposes to retire or abandon, prior to the  
179 date that all undepreciated investment relating thereto has  
180 been recovered through rates and the reasons for undertaking

181 such early retirement or abandonment, or if the electrical  
182 corporation is subject to a separate commission order or  
183 proceeding relating to such retirement or abandonment as  
184 contemplated by subdivision (2) of this subsection, and a  
185 description of the order or other proceeding;

186 (b) The energy transition costs;

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

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

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

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

213 charges are expected to provide quantifiable net present  
214 value benefits to customers;

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

223 (h) Direct testimony supporting the petition.

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

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

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

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

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

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

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

268 (g) Direct testimony supporting the petition.

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

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

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

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

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

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

306           a. The amount of securitized utility tariff costs to  
307 be financed using securitized utility tariff bonds and a  
308 finding that recovery of such costs is just and reasonable  
309 and in the public interest. The commission shall describe  
310 and estimate the amount of financing costs that may be

311 recovered through securitized utility tariff charges and  
312 specify the period over which securitized utility tariff  
313 costs and financing costs may be recovered;

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

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

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

337       d. A requirement that, for so long as the securitized  
338 utility tariff bonds are outstanding and until all financing  
339 costs have been paid in full, the imposition and collection  
340 of securitized utility tariff charges authorized under a  
341 financing order shall be nonbypassable and paid by all  
342 existing and future retail customers receiving electrical  
343 service from the electrical corporation or its successors or

344 assignees under commission-approved rate schedules except  
345 for customers receiving electrical service under special  
346 contracts on August 28, 2021, even if a retail customer  
347 elects to purchase electricity from an alternative electric  
348 supplier following a fundamental change in regulation of  
349 public utilities in this state;

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

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

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

370 h. How securitized utility tariff charges will be  
371 allocated among retail customer classes. The initial  
372 allocation shall remain in effect until the electrical  
373 corporation completes a general rate proceeding, and once  
374 the commission's order from that general rate proceeding  
375 becomes final, all subsequent applications of an adjustment  
376 mechanism regarding securitized utility tariff charges shall

377 incorporate changes in the allocation of costs to customers  
378 as detailed in the commission's order from the electrical  
379 corporation's most recent general rate proceeding;

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

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

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

405 l. A procedure that shall allow the electrical  
406 corporation to earn a return, at the cost of capital  
407 authorized from time to time by the commission in the  
408 electrical corporation's rate proceedings, on any moneys  
409 advanced by the electrical corporation to fund reserves, if



410 any, or capital accounts established under the terms of any  
411 indenture, ancillary agreement, or other financing documents  
412 pertaining to the securitized utility tariff bonds;

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

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

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

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

453           (e) If the commission issues a financing order, the  
454 electrical corporation shall file with the commission at  
455 least annually a petition or a letter applying the formula-  
456 based true-up mechanism and, based on estimates of  
457 consumption for each rate class and other mathematical  
458 factors, requesting administrative approval to make the  
459 applicable adjustments. The review of the filing shall be  
460 limited to determining whether there are any mathematical or  
461 clerical errors in the application of the formula-based true-  
462 up mechanism relating to the appropriate amount of any  
463 overcollection or undercollection of securitized utility  
464 tariff charges and the amount of an adjustment. The  
465 adjustments shall ensure the recovery of revenues sufficient  
466 to provide for the payment of principal, interest,  
467 acquisition, defeasance, financing costs, or redemption  
468 premium and other fees, costs, and charges in respect of  
469 securitized utility tariff bonds approved under the  
470 financing order. Within thirty days after receiving an  
471 electrical corporation's request pursuant to this paragraph,  
472 the commission shall either approve the request or inform  
473 the electrical corporation of any mathematical or clerical  
474 errors in its calculation. If the commission informs the  
475 electrical corporation of mathematical or clerical errors in

476 its calculation, the electrical corporation shall correct  
477 its error and refile its request. The time frames  
478 previously described in this paragraph shall apply to a  
479 refiled request.

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

496 (g) The commission, in a financing order and subject  
497 to the issuance advice letter process under paragraph (h) of  
498 this subdivision, shall specify the degree of flexibility to  
499 be afforded the electrical corporation in establishing the  
500 terms and conditions for the securitized utility tariff  
501 bonds to accommodate changes in market conditions, including  
502 repayment schedules, interest rates, financing costs,  
503 collateral requirements, required debt service and other  
504 reserves and the ability of the electrical corporation, at  
505 its option, to effect a series of issuances of securitized  
506 utility tariff bonds and correlated assignments, sales,  
507 pledges, or other transfers of securitized utility tariff  
508 property. Any changes made under this paragraph to terms

509 and conditions for the securitized utility tariff bonds  
510 shall be in conformance with the financing order.

511 (h) As the actual structure and pricing of the  
512 securitized utility tariff bonds will be unknown at the time  
513 the financing order is issued, prior to the issuance of each  
514 series of bonds, an issuance advice letter shall be provided  
515 to the commission by the electrical corporation following  
516 the determination of the final terms of such series of bonds  
517 no later than one day after the pricing of the securitized  
518 utility tariff bonds. The commission shall have the  
519 authority to designate a representative or representatives  
520 from commission staff, who may be advised by a financial  
521 advisor or advisors contracted with the commission, to  
522 provide input to the electrical corporation and collaborate  
523 with the electrical corporation in all facets of the process  
524 undertaken by the electrical corporation to place the  
525 securitized utility tariff bonds to market so the  
526 commission's representative or representatives can provide  
527 the commission with an opinion on the reasonableness of the  
528 pricing, terms, and conditions of the securitized utility  
529 tariff bonds on an expedited basis. Neither the designated  
530 representative or representatives from the commission staff  
531 nor one or more financial advisors advising commission staff  
532 shall have authority to direct how the electrical  
533 corporation places the bonds to market although they shall  
534 be permitted to attend all meetings convened by the  
535 electrical corporation to address placement of the bonds to  
536 market. The form of such issuance advice letter shall be  
537 included in the financing order and shall indicate the final  
538 structure of the securitized utility tariff bonds and  
539 provide the best available estimate of total ongoing  
540 financing costs. The issuance advice letter shall report  
541 the initial securitized utility tariff charges and other

542 information specific to the securitized utility tariff bonds  
543 to be issued, as the commission may require. Unless an  
544 earlier date is specified in the financing order, the  
545 electrical corporation may proceed with the issuance of the  
546 securitized utility tariff bonds unless, prior to noon on  
547 the fourth business day after the commission receives the  
548 issuance advice letter, the commission issues a disapproval  
549 letter directing that the bonds as proposed shall not be  
550 issued and the basis for that disapproval. The financing  
551 order may provide such additional provisions relating to the  
552 issuance advice letter process as the commission considers  
553 appropriate and as are not inconsistent with this section.

554 (4) (a) In performing the responsibilities of this  
555 section in connection with the issuance of a financing  
556 order, approving the petition, an order approving the  
557 petition subject to conditions, or an order rejecting the  
558 petition, the commission shall undertake due diligence as it  
559 deems appropriate prior to the issuance of the order  
560 regarding the petition pursuant to which the commission may  
561 request additional information from the electrical  
562 corporation and may engage one or more financial advisors,  
563 one or more consultants, and counsel as the commission deems  
564 necessary. Any financial advisor or advisors, counsel, and  
565 consultants engaged by the commission shall have a fiduciary  
566 duty with respect to the proposed issuance of securitized  
567 utility bonds solely to the commission. All expenses  
568 associated with such services shall be included as part of  
569 the financing costs of the securitized utility tariff bonds  
570 and shall be included in the securitized utility tariff  
571 charge.

572 (b) If an electrical corporation's petition for a  
573 financing order is denied or withdrawn, or for any reason  
574 securitized utility tariff bonds are not issued, any costs

575 of retaining one or more financial advisors, one or more  
576 consultants, and counsel on behalf of the commission shall  
577 be paid by the petitioning electrical corporation and shall  
578 be eligible for full recovery, including carrying costs, if  
579 approved by the commission in the electrical corporation's  
580 future rates.

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

592 (6) (a) A financing order remains in effect and  
593 securitized utility tariff property under the financing  
594 order continues to exist until securitized utility tariff  
595 bonds issued pursuant to the financing order have been paid  
596 in full or defeased and, in each case, all commission-  
597 approved financing costs of such securitized utility tariff  
598 bonds have been recovered in full.

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

604 3. (1) The commission may not, in exercising its  
605 powers and carrying out its duties regarding any matter  
606 within its authority, consider the securitized utility  
607 tariff bonds issued pursuant to a financing order to be the

608 debt of the electrical corporation other than for federal  
609 and state income tax purposes, consider the securitized  
610 utility tariff charges paid under the financing order to be  
611 the revenue of the electrical corporation for any purpose,  
612 consider the securitized utility tariff costs or financing  
613 costs specified in the financing order to be the costs of  
614 the electrical corporation, nor may the commission determine  
615 any action taken by an electrical corporation which is  
616 consistent with the financing order to be unjust or  
617 unreasonable, and section 386.300 shall not apply to the  
618 issuance of securitized utility tariff bonds.

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

625 (3) No electrical corporation is required to file a  
626 petition for a financing order under this section or  
627 otherwise utilize this section. An electrical corporation's  
628 decision not to file a petition for a financing order under  
629 this section shall not be admissible in any commission  
630 proceeding nor shall it be otherwise utilized or relied on  
631 by the commission in any proceeding respecting the  
632 electrical corporation's rates or its accounting, including,  
633 without limitation, any general rate proceeding, fuel  
634 adjustment clause docket, or proceedings relating to  
635 accounting authority, whether initiated by the electrical  
636 corporation or otherwise. The commission may not order or  
637 otherwise directly or indirectly require an electrical  
638 corporation to use securitized utility tariff bonds to  
639 recover securitized utility tariff costs or to finance any

640 project, addition, plant, facility, extension, capital  
641 improvement, equipment, or any other expenditure.

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

650 (5) After the issuance of a financing order with or  
651 without conditions, the electrical corporation retains sole  
652 discretion regarding whether to cause the securitized  
653 utility tariff bonds to be issued, including the right to  
654 defer or postpone such sale, assignment, transfer, or  
655 issuance. Nothing shall prevent the electrical corporation  
656 from abandoning the issuance of securitized utility tariff  
657 bonds under the financing order by filing with the  
658 commission a statement of abandonment and the reasons  
659 therefor; provided, that the electrical corporation's  
660 abandonment decision shall not be deemed imprudent because  
661 of the potential availability of securitized utility tariff  
662 bond financing; and provided further, that an electrical  
663 corporation's decision to abandon issuance of such bonds may  
664 be raised by any party, including the commission, as a  
665 reason the commission should not authorize, or should  
666 modify, the rate-making treatment proposed by the electrical  
667 corporation of the costs associated with the electric  
668 generating facility that was the subject of a petition under  
669 this section that would have been securitized as energy  
670 transition costs had such abandonment decision not been  
671 made, but only if the electrical corporation requests



672 nonstandard plant retirement treatment of such costs for  
673 rate-making purposes.

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

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

688 4. The electric bills of an electrical corporation  
689 that has obtained a financing order and caused securitized  
690 utility tariff bonds to be issued shall comply with the  
691 provisions of this subsection; however, the failure of an  
692 electrical corporation to comply with this subsection does  
693 not invalidate, impair, or affect any financing order,  
694 securitized utility tariff property, securitized utility  
695 tariff charge, or securitized utility tariff bonds. The  
696 electrical corporation shall do the following:

697 (1) Explicitly reflect that a portion of the charges  
698 on such bill represents securitized utility tariff charges  
699 approved in a financing order issued to the electrical  
700 corporation and, if the securitized utility tariff property  
701 has been transferred to an assignee, shall include a  
702 statement to the effect that the assignee is the owner of  
703 the rights to securitized utility tariff charges and that  
704 the electrical corporation or other entity, if applicable,

705 is acting as a collection agent or servicer for the  
706 assignee. The tariff applicable to customers shall indicate  
707 the securitized utility tariff charge and the ownership of  
708 the charge;

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

712 5. (1) (a) All securitized utility tariff property  
713 that is specified in a financing order constitutes an  
714 existing, present intangible property right or interest  
715 therein, notwithstanding that the imposition and collection  
716 of securitized utility tariff charges depends on the  
717 electrical corporation, to which the financing order is  
718 issued, performing its servicing functions relating to the  
719 collection of securitized utility tariff charges and on  
720 future electricity consumption. The property exists:

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

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

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

734 (c) All or any portion of securitized utility tariff  
735 property specified in a financing order issued to an  
736 electrical corporation may be transferred, sold, conveyed,  
737 or assigned to a successor or assignee that is wholly owned,

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

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

765 (e) The interest of a transferee, purchaser, acquirer,  
766 assignee, or pledgee in securitized utility tariff property  
767 specified in a financing order issued to an electrical  
768 corporation, and in the revenue and collections arising from  
769 that property, is not subject to setoff, counterclaim,  
770 surcharge, or defense by the electrical corporation or any

771 other person or in connection with the reorganization,  
772 bankruptcy, or other insolvency of the electrical  
773 corporation or any other entity.

774 (f) Any successor to an electrical corporation,  
775 whether pursuant to any reorganization, bankruptcy, or other  
776 insolvency proceeding or whether pursuant to any merger or  
777 acquisition, sale, or other business combination, or  
778 transfer by operation of law, as a result of electrical  
779 corporation restructuring or otherwise, shall perform and  
780 satisfy all obligations of, and have the same rights under a  
781 financing order as, the electrical corporation under the  
782 financing order in the same manner and to the same extent as  
783 the electrical corporation, including collecting and paying  
784 to the person entitled to receive the revenues, collections,  
785 payments, or proceeds of the securitized utility tariff  
786 property. Nothing in this section is intended to limit or  
787 impair any authority of the commission concerning the  
788 transfer or succession of interests of public utilities.

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

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

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

805 a. The financing order is issued;

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

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

811 d. Value is received for the securitized utility  
812 tariff property.

813 The description of securitized utility tariff property in a  
814 security agreement is sufficient if the description refers  
815 to this section and the financing order creating the  
816 securitized utility tariff property. A security interest  
817 shall attach as provided in this paragraph without any  
818 physical delivery of collateral or other act.

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

832 (d) The priority of a security interest in securitized  
833 utility tariff property is not affected by the commingling  
834 of securitized utility tariff charges with other amounts.

835 Any pledgee or secured party shall have a perfected security  
836 interest in the amount of all securitized utility tariff  
837 charges that are deposited in any cash or deposit account of  
838 the qualifying electrical corporation in which securitized  
839 utility tariff charges have been commingled with other funds  
840 and any other security interest that may apply to those  
841 funds shall be terminated when they are transferred to a  
842 segregated account for the assignee or a financing party.

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

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

862 (3) (a) Any sale, assignment, or other transfer of  
863 securitized utility tariff property shall be an absolute  
864 transfer and true sale of, and not a pledge of or secured  
865 transaction relating to, the seller's right, title, and  
866 interest in, to, and under the securitized utility tariff  
867 property if the documents governing the transaction

868 expressly state that the transaction is a sale or other  
869 absolute transfer other than for federal and state income  
870 tax purposes. For all purposes other than federal and state  
871 income tax purposes, the parties' characterization of a  
872 transaction as a sale of an interest in securitized utility  
873 tariff property shall be conclusive that the transaction is  
874 a true sale and that ownership has passed to the party  
875 characterized as the purchaser, regardless of whether the  
876 purchaser has possession of any documents evidencing or  
877 pertaining to the interest. A sale or similar outright  
878 transfer of an interest in securitized utility tariff  
879 property may occur only when all of the following have  
880 occurred:

- 881 a. The financing order creating the securitized  
882 utility tariff property has become effective;
- 883 b. The documents evidencing the transfer of  
884 securitized utility tariff property have been executed by  
885 the assignor and delivered to the assignee; and
- 886 c. Value is received for the securitized utility  
887 tariff property.

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

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

- 898 a. Commingling of securitized utility tariff charges  
899 with other amounts;

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

907           c. Any recourse that the purchaser may have against  
908 the seller;

909           d. Any indemnification rights, obligations, or  
910 repurchase rights made or provided by the seller;

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

913           f. The transferor acting as the servicer of the  
914 securitized utility tariff charges or the existence of any  
915 contract that authorizes or requires the electrical  
916 corporation, to the extent that any interest in securitized  
917 utility tariff property is sold or assigned, to contract  
918 with the assignee or any financing party that it will  
919 continue to operate its system to provide service to its  
920 customers, will collect amounts in respect of the  
921 securitized utility tariff charges for the benefit and  
922 account of such assignee or financing party, and will  
923 account for and remit such amounts to or for the account of  
924 such assignee or financing party;

925           g. The treatment of the sale, conveyance, assignment,  
926 or other transfer for tax, financial reporting, or other  
927 purposes;

928           h. The granting or providing to bondholders a  
929 preferred right to the securitized utility tariff property  
930 or credit enhancement by the electrical corporation or its  
931 affiliates with respect to such securitized utility tariff  
932 bonds;



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

935 (c) Any right that an electrical corporation has in  
936 the securitized utility tariff property before its pledge,  
937 sale, or transfer or any other right created under this  
938 section or created in the financing order and assignable  
939 under this section or assignable pursuant to a financing  
940 order is property in the form of a contract right or a chose  
941 in action. Transfer of an interest in securitized utility  
942 tariff property to an assignee is enforceable only upon the  
943 later of:

944 a. The issuance of a financing order;

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

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

951 d. The receipt of value for the securitized utility  
952 tariff property.

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

960 (d) The priority of a transfer perfected under this  
961 section is not impaired by any later modification of the  
962 financing order or securitized utility tariff property or by  
963 the commingling of funds arising from securitized utility  
964 tariff property with other funds. Any other security  
965 interest that may apply to those funds, other than a

966 security interest perfected under this section, is  
967 terminated when they are transferred to a segregated account  
968 for the assignee or a financing party. If securitized  
969 utility tariff property has been transferred to an assignee  
970 or financing party, any proceeds of that property shall be  
971 held in trust for the assignee or financing party.

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

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

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

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

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

999 transfer agreement, security agreement, pledge agreement, or  
1000 other security document was entered into, or any financing  
1001 statement was filed.

1002 7. The secretary of state shall maintain any financing  
1003 statement filed to perfect a sale or other transfer of  
1004 securitized utility tariff property and any security  
1005 interest in securitized utility tariff property under this  
1006 section in the same manner that the secretary of state  
1007 maintains financing statements filed under the code to  
1008 perfect a security interest in collateral owned by a  
1009 transmitting utility. Except as otherwise provided in this  
1010 section, all financing statements filed pursuant to this  
1011 section shall be governed by the provisions regarding  
1012 financing statements and the filing thereof under the code,  
1013 including part 5 of article 9 of the code. A security  
1014 interest in securitized utility tariff property may be  
1015 perfected only by the filing of a financing statement in  
1016 accordance with this section, and no other method of  
1017 perfection shall be effective. Notwithstanding any  
1018 provision of the code to the contrary, a financing statement  
1019 filed pursuant to this section is effective until a  
1020 termination statement is filed under the code, and no  
1021 continuation statement need be filed to maintain its  
1022 effectiveness. A financing statement filed pursuant to this  
1023 section may indicate that the debtor is a transmitting  
1024 utility, and without regard to whether the debtor is an  
1025 electrical corporation, an assignee or otherwise qualifies  
1026 as a transmitting utility under the code, but the failure to  
1027 make such indication shall not impair the duration and  
1028 effectiveness of the financing statement.

1029 8. The law governing the validity, enforceability,  
1030 attachment, perfection, priority, and exercise of remedies  
1031 with respect to the transfer of an interest or right or the

1032 pledge or creation of a security interest in any securitized  
1033 utility tariff property shall be the laws of this state.

1034 9. Neither the state nor its political subdivisions  
1035 are liable on any securitized utility tariff bonds, and the  
1036 bonds are not a debt or a general obligation of the state or  
1037 any of its political subdivisions, agencies, or  
1038 instrumentalities, nor are they special obligations or  
1039 indebtedness of the state or any agency or political  
1040 subdivision. An issue of securitized utility tariff bonds  
1041 does not, directly, indirectly, or contingently, obligate  
1042 the state or any agency, political subdivision, or  
1043 instrumentality of the state to levy any tax or make any  
1044 appropriation for payment of the securitized utility tariff  
1045 bonds, other than in their capacity as consumers of  
1046 electricity. All securitized utility tariff bonds shall  
1047 contain on the face thereof a statement to the following  
1048 effect: "Neither the full faith and credit nor the taxing  
1049 power of the state of Missouri is pledged to the payment of  
1050 the principal of, or interest on, this bond."

1051 10. All of the following entities may legally invest  
1052 any sinking funds, moneys, or other funds in securitized  
1053 utility tariff bonds:

1054 (1) Subject to applicable statutory restrictions on  
1055 state or local investment authority, the state, units of  
1056 local government, political subdivisions, public bodies, and  
1057 public officers, except for members of the commission, the  
1058 commission's technical advisory and other staff, or  
1059 employees of the office of the public counsel;

1060 (2) Banks and bankers, savings and loan associations,  
1061 credit unions, trust companies, savings banks and  
1062 institutions, investment companies, insurance companies,  
1063 insurance associations, and other persons carrying on a  
1064 banking or insurance business;

1065 (3) Personal representatives, guardians, trustees, and  
1066 other fiduciaries;

1067 (4) All other persons authorized to invest in bonds or  
1068 other obligations of a similar nature.

1069 11. (1) The state and its agencies, including the  
1070 commission, pledge and agree with bondholders, the owners of  
1071 the securitized utility tariff property, and other financing  
1072 parties that the state and its agencies will not take any  
1073 action listed in this subdivision. This subdivision does  
1074 not preclude limitation or alteration if full compensation  
1075 is made by law for the full protection of the securitized  
1076 utility tariff charges collected pursuant to a financing  
1077 order and of the bondholders and any assignee or financing  
1078 party entering into a contract with the electrical  
1079 corporation. The prohibited actions are as follows:

1080 (a) Alter the provisions of this section, which  
1081 authorize the commission to create an irrevocable contract  
1082 right or chose in action by the issuance of a financing  
1083 order, to create securitized utility tariff property, and  
1084 make the securitized utility tariff charges imposed by a  
1085 financing order irrevocable, binding, or nonbypassable  
1086 charges for all existing and future retail customers of the  
1087 electrical corporation except its existing special contract  
1088 customers;

1089 (b) Take or permit any action that impairs or would  
1090 impair the value of securitized utility tariff property or  
1091 the security for the securitized utility tariff bonds or  
1092 revises the securitized utility tariff costs for which  
1093 recovery is authorized;

1094 (c) In any way impair the rights and remedies of the  
1095 bondholders, assignees, and other financing parties;

1096 (d) Except for changes made pursuant to the formula-  
1097 based true-up mechanism authorized under this section,

1098 reduce, alter, or impair securitized utility tariff charges  
1099 that are to be imposed, billed, charged, collected, and  
1100 remitted for the benefit of the bondholders, any assignee,  
1101 and any other financing parties until any and all principal,  
1102 interest, premium, financing costs and other fees, expenses,  
1103 or charges incurred, and any contracts to be performed, in  
1104 connection with the related securitized utility tariff bonds  
1105 have been paid and performed in full.

1106 (2) Any person or entity that issues securitized  
1107 utility tariff bonds may include the language specified in  
1108 this subsection in the securitized utility tariff bonds and  
1109 related documentation.

1110 12. An assignee or financing party is not an  
1111 electrical corporation or person providing electric service  
1112 by virtue of engaging in the transactions described in this  
1113 section.

1114 13. If there is a conflict between this section and  
1115 any other law regarding the attachment, assignment, or  
1116 perfection, or the effect of perfection, or priority of,  
1117 assignment or transfer of, or security interest in  
1118 securitized utility tariff property, this section shall  
1119 govern.

1120 14. If any provision of this section is held invalid  
1121 or is invalidated, superseded, replaced, repealed, or  
1122 expires for any reason, that occurrence does not affect the  
1123 validity of any action allowed under this section which is  
1124 taken by an electrical corporation, an assignee, a financing  
1125 party, a collection agent, or a party to an ancillary  
1126 agreement; and any such action remains in full force and  
1127 effect with respect to all securitized utility tariff bonds  
1128 issued or authorized in a financing order issued under this  
1129 section before the date that such provision is held invalid

1130 or is invalidated, superseded, replaced, or repealed, or  
1131 expires for any reason.