

SECOND REGULAR SESSION

SENATE COMMITTEE SUBSTITUTE FOR

SENATE BILL NO. 740

102ND GENERAL ASSEMBLY

4317S.04C

KRISTINA MARTIN, Secretary

AN ACT

To repeal sections 204.300, 204.610, 393.320, 393.1030, 393.1506, 393.1700, and 640.144, RSMo, and to enact in lieu thereof eight new sections relating to utilities.

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

Section A. Sections 204.300, 204.610, 393.320, 393.1030,
2 393.1506, 393.1700, and 640.144, RSMo, are repealed and eight
3 new sections enacted in lieu thereof, to be known as sections
4 204.300, 204.610, 393.320, 393.1030, 393.1506, 393.1645,
5 393.1700, and 640.144, to read as follows:

204.300. 1. In all counties except counties of the
2 first classification which have a charter form of government
3 and which contain all or any portion of a city with a
4 population of three hundred fifty thousand or more
5 inhabitants, the governing body of the county, by
6 resolution, order, or ordinance, shall appoint five
7 trustees, the majority of whom shall reside within the
8 boundaries of the district. In the event the district
9 extends into any county bordering the county in which the
10 greater portion of the district lies, the presiding
11 commissioner or other chief executive officer of the
12 adjoining county shall be an additional member of the
13 appointed board of trustees. **Subject to the provisions of**
14 **section 105.454**, the trustees may be paid reasonable
15 compensation by the district for their services [; except

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

16 that, any compensation schedule shall be approved by
17 resolution of the board of trustees] **outside their duties as**
18 **trustees. Each trustee of the board may receive an**
19 **attendance fee not to exceed one hundred dollars for**
20 **attending each regularly called board meeting, or special**
21 **meeting, but shall not be paid for attending more than two**
22 **meetings in any calendar month, except that in a county of**
23 **the first classification, a trustee shall not be paid for**
24 **attending more than four meetings in any calendar month.**
25 **However, no trustee shall be paid more than one attendance**
26 **fee if such trustee attends more than one board meeting in a**
27 **calendar week. Each trustee of the board shall be**
28 **reimbursed for his or her actual expenditures in the**
29 **performance of his or her duties on behalf of the district.**
30 The board of trustees shall be responsible for the control
31 and operation of the sewer district. The term of each board
32 member shall be five years; except that, members of the
33 governing body of the county sitting upon the board shall
34 not serve beyond the expiration of their term as members of
35 such governing body of the county. The first board of
36 trustees shall be appointed for terms ranging from one to
37 five years so as to establish one vacancy per year
38 thereafter. If the governing body of the county with the
39 right of appointment under this section fails to appoint a
40 trustee to fill a vacancy on the board within sixty days
41 after receiving written notice from the common sewer
42 district of the existence of such vacancy, then the vacancy
43 may be filled by a majority of the remaining members then in
44 office of the board of trustees of such common sewer
45 district. **Subject to the provisions of section 105.454,** the
46 trustees may be paid reasonable compensation by the district
47 for their services[; except that, any compensation schedule

48 shall be approved by resolution, order, or ordinance of the
49 governing body of the county. Any and all expenses incurred
50 in the performance of their duties shall be reimbursed by
51 the district] **outside their duties as trustees. Each**
52 **trustee of the board may receive an attendance fee not to**
53 **exceed one hundred dollars for attending each regularly**
54 **called board meeting, or special meeting, but shall not be**
55 **paid for attending more than two meetings in any calendar**
56 **month, except that in a county of the first classification,**
57 **a trustee shall not be paid for attending more than four**
58 **meetings in any calendar month. However, no trustee shall**
59 **be paid more than one attendance fee if such trustee attends**
60 **more than one board meeting in a calendar week. Each**
61 **trustee of the board shall be reimbursed for his or her**
62 **actual expenditures in the performance of his or her duties**
63 **on behalf of the district.** The board of trustees shall have
64 the power to employ and fix the compensation of such staff
65 as may be necessary to discharge the business and purposes
66 of the district, including clerks, attorneys, administrative
67 assistants, and any other necessary personnel. The board of
68 trustees shall select a treasurer, who may be either a
69 member of the board of trustees or another qualified
70 individual. The treasurer selected by the board shall give
71 such bond as may be required by the board of trustees. The
72 board of trustees shall appoint the sewer engineer for the
73 county in which the greater part of the district lies as
74 chief engineer for the district, and the sewer engineer
75 shall have the same powers, responsibilities and duties in
76 regard to planning, construction and maintenance of the
77 sewers, and treatment facilities of the district as he now
78 has by virtue of law in regard to the sewer facilities
79 within the county for which he is elected. If there is no

80 sewer engineer in the county in which the greater part of
81 the district lies, the board of trustees may employ a
82 registered professional engineer as chief engineer for the
83 district under such terms and conditions as may be necessary
84 to discharge the business and purposes of the district. The
85 provisions of this subsection shall not apply to any county
86 of the first classification which has a charter form of
87 government and which contains all or any portion of a city
88 with a population of three hundred fifty thousand or more
89 inhabitants.

90 2. In any county of the first classification which has
91 a charter form of government and which contains all or any
92 portion of a city with a population of three hundred fifty
93 thousand or more inhabitants, [and in any county of the
94 first classification without a charter form of government
95 and which has a population of more than sixty-three thousand
96 seven hundred but less than seventy-five thousand,] there
97 shall be a ten-member board of trustees to consist of the
98 county executive, the mayors of the five cities constituting
99 the largest users by flow during the previous fiscal year,
100 the mayors of three cities which are not among the five
101 largest users and who are members of the advisory board of
102 the district established pursuant to section 204.310, and
103 one member of the county legislature to be appointed by the
104 county executive, with the concurrence of the county
105 legislature. If the county executive does not appoint such
106 members of the county legislature to the board of trustees
107 within sixty days, the county legislature shall make the
108 appointments. The advisory board members shall be appointed
109 annually by the advisory board. In the event the district
110 extends into any county bordering the county in which the
111 greater portion of the district lies, the number of members

112 on the board of trustees shall be increased to a total of
113 eleven and the presiding commissioner or county executive of
114 the adjoining county shall be an additional member of the
115 board of trustees. The trustees **of a district with an**
116 **eleven-member board and located in two counties** shall
117 receive no compensation for their services[,] but may be
118 compensated for their reasonable expenses normally incurred
119 in the performance of their duties. **Each trustee of a ten-**
120 **member board may receive an attendance fee not to exceed one**
121 **hundred dollars for attending each regularly called board**
122 **meeting, or special meeting, but shall not be paid for**
123 **attending more than two meetings in any calendar month.**
124 **However, no trustee of a ten-member board shall be paid more**
125 **than one attendance fee if such trustee attends more than**
126 **one board meeting in a calendar week. Each trustee of a ten-**
127 **member board shall be reimbursed for his or her actual**
128 **expenditures in the performance of his or her duties on**
129 **behalf of the district. Subject to the provisions of**
130 **section 105.454, the trustees of a ten-member board may be**
131 **paid reasonable compensation by the district for their**
132 **services outside their duties as trustees.** The board of
133 trustees may employ and fix the compensation of such staff
134 as may be necessary to discharge the business and purposes
135 of the district, including clerks, attorneys, administrative
136 assistants, and any other necessary personnel. The board of
137 trustees may employ and fix the duties and compensation of
138 an administrator for the district. The administrator shall
139 be the chief executive officer of the district subject to
140 the supervision and direction of the board of trustees and
141 shall exercise the powers, responsibilities and duties
142 heretofore exercised by the chief engineer prior to
143 September 28, 1983. The administrator of the district may,

144 with the approval of the board of trustees, retain
145 consulting engineers for the district under such terms and
146 conditions as may be necessary to discharge the business and
147 purposes of the district. The provisions of this subsection
148 shall only apply to counties of the first classification
149 which have a charter form of government and which contain
150 all or any portion of a city with a population of three
151 hundred fifty thousand or more inhabitants.

204.610. 1. There shall be five trustees, appointed
2 or elected as provided for in the circuit court decree or
3 amended decree of incorporation for a reorganized common
4 sewer district, who shall reside within the boundaries of
5 the district. Each trustee shall be a voter of the district
6 and shall have resided in said district for twelve months
7 immediately prior to the trustee's election or appointment.
8 A trustee shall be at least twenty-five years of age and
9 shall not be delinquent in the payment of taxes at the time
10 of the trustee's election or appointment. Regardless of
11 whether or not the trustees are elected or appointed, in the
12 event the district extends into any county bordering the
13 county in which the greater portion of the district lies,
14 the presiding commissioner or other chief executive officer
15 of the adjoining county shall be an additional member of the
16 board of trustees, or the governing body of such bordering
17 county may appoint a citizen from such county to serve as an
18 additional member of the board of trustees. Said additional
19 trustee shall meet the qualifications set forth in this
20 section for a trustee.

21 2. [The trustees shall receive no compensation for
22 their services but may be compensated for reasonable
23 expenses normally incurred in the performance of their
24 duties.] **Each trustee of the board may receive an**

25 attendance fee not to exceed one hundred dollars for
26 attending each regularly called board meeting, or special
27 meeting, but shall not be paid for attending more than two
28 meetings in any calendar month. However, no trustee shall
29 be paid more than one attendance fee if such trustee attends
30 more than one board meeting in a calendar week. Each
31 trustee of the board shall be reimbursed for his or her
32 actual expenditures in the performance of his or her duties
33 on behalf of the district. Subject to the provisions of
34 section 105.454, the trustees may be paid reasonable
35 compensation by the district for their services outside
36 their duties as trustees. The board of trustees may employ
37 and fix the compensation of such staff as may be necessary
38 to discharge the business and purposes of the district,
39 including clerks, attorneys, administrative assistants, and
40 any other necessary personnel. The board of trustees may
41 employ and fix the duties and compensation of an
42 administrator for the district. The administrator shall be
43 the chief executive officer of the district subject to the
44 supervision and direction of the board of trustees. The
45 administrator of the district may, with the approval of the
46 board of trustees, retain consulting engineers for the
47 district under such terms and conditions as may be necessary
48 to discharge the business and purposes of the district.

49 3. Except as provided in subsection 1 of this section,
50 the term of office of a trustee shall be five years. The
51 remaining trustees shall appoint a person qualified under
52 this section to fill any vacancy on the board. The initial
53 trustees appointed by the circuit court shall serve until
54 the first Tuesday after the first Monday in June or until
55 the first Tuesday after the first Monday in April, depending
56 upon the resolution of the trustees. In the event that the

57 trustees are elected, said elections shall be conducted by
58 the appropriate election authority under chapter 115.
59 Otherwise, trustees shall be appointed by the county
60 commission in accordance with the qualifications set forth
61 in subsection 1 of this section.

62 4. Notwithstanding any other provision of law, if
63 there is only one candidate for the post of trustee, then no
64 election shall be held, and the candidate shall assume the
65 responsibilities of office at the same time and in the same
66 manner as if elected. If there is no candidate for the post
67 of trustee, then no election shall be held for that post and
68 it shall be considered vacant, to be filled under the
69 provisions of subsection 3 of this section.

393.320. 1. As used in this section, the following
2 terms mean:

3 (1) "Large water public utility", a public utility:

4 (a) That regularly provides water service [or sewer
5 service] to more than eight thousand customer connections,
6 **regularly provides sewer service to more than eight thousand**
7 **customer connections, or regularly provides a combination of**
8 **either to more than eight thousand customer connections;** and

9 (b) That provides safe and adequate service but shall
10 not include a sewer district established under Section
11 30(a), Article VI of the Missouri Constitution, sewer
12 districts established under the provisions of chapter 204,
13 249, or 250, public water supply districts established under
14 the provisions of chapter 247, or municipalities that own
15 water or sewer systems;

16 (2) "Small water utility", a public utility that
17 regularly provides water service or sewer service to eight
18 thousand or fewer customer connections; a water district
19 established under the provisions of chapter 247 that

20 regularly provides water or sewer service to eight thousand
21 or fewer customer connections; a sewer district established
22 under the provisions of chapter 204, 249, or 250 that
23 regularly provides sewer service to eight thousand or fewer
24 customer connections; or a water system or sewer system
25 owned by a municipality that regularly provides water
26 service or sewer service to eight thousand or fewer customer
27 connections; and all other entities that regularly provide
28 water service or sewer service to eight thousand or fewer
29 customer connections.

30 2. The procedures contained in this section may be
31 chosen by a large water public utility, and if so chosen
32 shall be used by the public service commission to establish
33 the ratemaking rate base of a small water utility during an
34 acquisition.

35 3. (1) An appraisal shall be performed by three
36 appraisers. One appraiser shall be appointed by the small
37 water utility, one appraiser shall be appointed by the large
38 water public utility, and the third appraiser shall be
39 appointed by the two appraisers so appointed. Each of the
40 appraisers shall be a disinterested person who is a
41 certified general appraiser under chapter 339.

42 (2) The appraisers shall:

43 (a) Jointly prepare an appraisal of the fair market
44 value of the water system and/or sewer system. The
45 determination of fair market value shall be in accordance
46 with Missouri law and with the Uniform Standards of
47 Professional Appraisal Practice; and

48 (b) Return their appraisal, in writing, to the small
49 water utility and large water public utility in a reasonable
50 and timely manner.

51 (3) If all three appraisers cannot agree as to the
52 appraised value, the appraisal, when signed by two of the
53 appraisers, constitutes a good and valid appraisal.

54 4. Nothing in this section shall prohibit a party from
55 declining to proceed with an acquisition or be deemed as
56 establishing the final purchase price of an acquisition.

57 5. (1) The lesser of the purchase price or the
58 appraised value, together with the reasonable and prudent
59 transaction, closing, and transition costs incurred by the
60 large water public utility, shall constitute the ratemaking
61 rate base for the small water utility as acquired by the
62 acquiring large water public utility; provided, however,
63 that if the small water utility is a public utility subject
64 to chapter 386 and the small water utility completed a rate
65 case prior to the acquisition, the public service commission
66 may select as the ratemaking rate base for the small water
67 utility as acquired by the acquiring large water public
68 utility a ratemaking rate base in between:

69 (a) The lesser of the purchase price or the appraised
70 value, together with the reasonable and prudent transaction,
71 closing, and transition costs incurred by the large water
72 public utility unless such transaction, closing, and
73 transition costs are elsewhere recoverable in rates; and

74 (b) The ratemaking rate base of the small water
75 utility as ordered by the public service commission in the
76 small water utility's last previous rate case as adjusted by
77 improvements and depreciation reserve since the previous
78 rate case together with the transaction, closing, and
79 transition costs incurred by the large water public utility
80 unless such transaction, closing, and transition costs are
81 elsewhere recoverable in rates. If the small water utility
82 and large water public utility proceed with the sale, any

83 past-due fees due to the state from the small water utility
84 or its customers under chapter 640 or 644 shall be resolved
85 prior to the transfer of ownership or the liability for such
86 past-due fees becomes the responsibility of the large water
87 public utility. Such fees shall not be included in the
88 large water public utility's rate base.

89 (2) The public service commission shall issue its
90 decision establishing the ratemaking rate base of the small
91 water utility in its order approving the acquisition. **For**
92 **any acquisition with an appraised value of five million**
93 **dollars or less, such decision shall be issued within six**
94 **months from the submission of the application by the large**
95 **public water utility to acquire the small water utility.**

96 (3) **Prior to the expiration of the six-month period,**
97 **the public service commission staff or the office of public**
98 **counsel may request, upon a showing of good cause, from the**
99 **public service commission an extension for approval of the**
100 **application for an additional thirty days.**

101 6. Upon the date of the acquisition of a small water
102 utility by a large water public utility, whether or not the
103 procedures for establishing ratemaking rate base provided by
104 this section have been utilized, the small water utility
105 shall, for ratemaking purposes, become part of an existing
106 service area, as defined by the public service commission,
107 of the acquiring large water public utility that is either
108 contiguous to the small water utility, the closest
109 geographically to the small water utility, or best suited
110 due to operational or other factors. This consolidation
111 shall be approved by the public service commission in its
112 order approving the acquisition.

113 7. Any new permit issued pursuant to chapters 640 and
114 644, when a small water utility is acquired by a large water

115 public utility, shall include a plan to resolve all
116 outstanding permit compliance issues. After the transfer of
117 ownership, the acquiring large public water utility shall
118 continue providing service to all customers that were served
119 by the small water utility at the time of sale.

120 8. This section is intended for the specific and
121 unique purpose of determining the ratemaking rate base of
122 small water utilities and shall be exclusively applied to
123 large water public utilities in the acquisition of a small
124 water utility. This section is not intended to apply beyond
125 its specific purpose and shall not be construed in any
126 manner to apply to electric corporations, natural gas
127 corporations, or any other utility regulated by the public
128 service commission.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

393.1506. 1. Notwithstanding any provisions of
2 chapter 386 and this chapter to the contrary, a water or
3 sewer corporation that provides water [or sewer] service to
4 more than eight thousand customer connections, **sewer service**
5 **to more than eight thousand customer connections, or a**
6 **combination of either to more than eight thousand customer**
7 **connections** may file a petition and proposed rate schedules
8 with the commission to establish or change a WSIRA that will
9 provide for the recovery of the appropriate pretax revenues
10 associated with the eligible infrastructure system projects,
11 less the appropriate pretax revenues associated with any
12 retired utility plant that is being replaced by the eligible
13 infrastructure system projects. The WSIRA shall not produce
14 revenues in excess of fifteen percent of the water or sewer
15 corporation's base revenue requirement approved by the
16 commission in the water or sewer corporation's most recent
17 general rate proceeding; provided, however, that neither
18 WSIRA revenues attributable to replacement of customer-owned
19 lead service lines, nor any reconciliation amounts described
20 in subdivision (2) of subsection 5 of section 393.1509,
21 shall count toward the program cap. The WSIRA and any
22 future changes thereto shall be calculated and implemented
23 in accordance with the provisions of sections 393.1503 to
24 393.1509. WSIRA revenues shall be subject to refund based

25 upon a finding and order of the commission, to the extent
26 provided in subsections 5 and 8 of section 393.1509.

27 2. The commission shall not approve a WSIRA for a
28 water or sewer corporation that has not had a general rate
29 proceeding decided or dismissed by issuance of a commission
30 order within the past three years of the filing of a
31 petition pursuant to this section unless the water or sewer
32 corporation has filed for or is the subject of a new general
33 rate proceeding.

34 3. In no event shall a water or sewer corporation
35 collect a WSIRA for a period exceeding three years unless
36 the water or sewer corporation has filed for or is the
37 subject of a pending general rate proceeding; provided that
38 the WSIRA may be collected until the effective date of new
39 rate schedules established as a result of the new general
40 rate proceeding or until the subject general rate proceeding
41 is otherwise decided or dismissed by issuance of a
42 commission order without new rates being established.

43 4. Except as provided in this subsection, in no event
44 shall a water or sewer corporation collect a WSIRA if also
45 collecting revenues from a commission approved
46 infrastructure system replacement surcharge as provided in
47 sections 393.1000 to 393.1006. In no event shall a customer
48 be charged both an infrastructure system replacement
49 surcharge as provided in sections 393.1000 to 393.1006 and a
50 WSIRA. In the event a water or sewer corporation is
51 collecting infrastructure system replacement surcharge
52 revenues under sections 393.1000 to 393.1006, that was
53 approved prior to August 28, 2021, when the initial WSIRA is
54 filed, the approved infrastructure system replacement
55 surcharge revenues shall be included in the new WSIRA filing.

393.1645. 1. Subject to the limitations provided for
in subsection 2 of this section, and upon proper application
by an eligible customer prior to public announcement of a
growth project, a new or existing account meeting the
criteria in this subsection shall qualify for one of the
discounts set forth in subdivision (1) or (2) of this
subsection:

(1) When the customer is a new customer and the new
load is reasonably projected to be at least two hundred
seventy thousand CCF annually, the discount shall equal up
to twenty-five percent subject to the limiting provisions of
this section and shall apply for four years; or

(2) When the customer is an existing customer and the
new load is reasonably projected to be at least one hundred
thirty-five thousand CCF annually, the discount shall equal
twenty-five percent subject to the limiting provisions of
this section and shall apply for four years.

To obtain one of the discounts set forth in subdivision (1)
or (2) of this subsection, the customer's load shall be
incremental, net of any offsetting load reductions due to
the termination of other accounts of the customer or an
affiliate of the customer within twelve months prior to the
commencement of service to the new load, the customer shall
receive an economic development incentive from the local,
regional, state, or federal government, or from an agency or
program of any such government, in conjunction with the
incremental load, and the customer shall meet the criteria
set forth in the gas corporation's economic development
rider tariff sheet, as approved by the commission, that are
not inconsistent with the provisions of this subsection.
Unless otherwise provided for by the gas corporation's

32 tariff, the applicable discount shall be a percentage
33 applied to all variable base-rate components of the bill.
34 The discount shall be applied to such incremental load from
35 the date when the meter has been permanently set until the
36 date that such incremental load no longer meets the criteria
37 required to qualify for the discount as determined under the
38 provisions of subsection 2 of this section, or a maximum of
39 four years. The gas corporation may include in its tariff
40 additional or alternative terms and conditions to a
41 customer's utilization of the discount, subject to approval
42 of such terms and conditions by the commission. The
43 customer, on forms supplied by the gas corporation, shall
44 apply for the applicable discount provided for by this
45 subsection at least ninety days prior to the date the
46 customer requests that the incremental usage receive one of
47 the discounts provided for by this subsection and shall
48 enter into a written agreement with the gas corporation
49 reflecting the discount percentages and other pertinent
50 details prior to which no discount will be available. If
51 the incremental usage is not separately metered, the gas
52 corporation's determination of the incremental usage shall
53 control. The gas corporation shall verify the customer's
54 consumption annually to determine continued qualification
55 for the applicable discount. Notwithstanding the foregoing
56 provisions of this subsection, the cents-per-CCF realization
57 resulting from application of any discounted rates as
58 calculated shall be higher than the gas corporation's
59 variable cost to serve such incremental usage and the
60 applicable discounted rate also shall make a positive
61 contribution to fixed costs associated with service to such
62 incremental usage. If in a subsequent general rate
63 proceeding the commission determines that application of a

64 discounted rate is not adequate to cover the gas
65 corporation's variable cost to serve the accounts in
66 question and provide a positive contribution to fixed costs,
67 then the commission shall reduce the discount for those
68 accounts prospectively to the extent necessary to do so.

69 2. In each general rate proceeding concluded after
70 August 28, 2024, the difference in revenues generated by
71 applying the discounted rates provided for by this section
72 and the revenues that would have been generated without such
73 discounts shall not be imputed into the gas corporation's
74 revenue requirement, but instead such revenue requirement
75 shall be set using the revenues generated by such discounted
76 rates, and the impact of the discounts provided for by this
77 section shall be allocated to all the gas corporation's
78 customer classes, including the classes with customers that
79 qualify for discounts under this section, through the
80 application of a uniform percentage adjustment to the
81 revenue requirement responsibility of all customer classes.
82 To qualify for the discounted rates provided for in this
83 section, customers shall meet the applicable criteria within
84 twenty-four months of initially receiving discounts based on
85 metering data for calendar months thirteen through twenty-
86 four and annually thereafter. If such data indicates that
87 the customer did not meet the applicable criteria for any
88 subsequent twelve-month period, it shall thereafter no
89 longer qualify for a discounted rate. Customer usage
90 existing at the time the customer makes application for
91 discounted rates under this section shall not constitute
92 incremental usage. The discounted rates provided for by
93 this section apply only to variable base-rate components,
94 with charges or credits arising from any rate adjustment
95 mechanism authorized by law to be applied to customers

96 **qualifying for discounted rates under this section in the**
97 **same manner as such rate adjustments would apply in absence**
98 **of this section.**

99 **3. For purposes of this section, "gas corporation"**
100 **shall mean the same as defined in section 386.020.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

118 (15) "Securitized utility tariff bonds", bonds,
119 debentures, notes, certificates of participation,
120 certificates of beneficial interest, certificates of
121 ownership, or other evidences of indebtedness or ownership
122 that are issued by an electrical corporation or an assignee

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

132 (16) "Securitized utility tariff charge", the amounts
133 authorized by the commission to repay, finance, or refinance
134 securitized utility tariff costs and financing costs and
135 that are, except as otherwise provided for in this section,
136 nonbypassable charges imposed on and part of all retail
137 customer bills, collected by an electrical corporation or
138 its successors or assignees, or a collection agent, in full,
139 separate and apart from the electrical corporation's base
140 rates, and paid by all existing or future retail customers
141 receiving electrical service from the electrical corporation
142 or its successors or assignees under commission-approved
143 rate schedules, except for customers receiving electrical
144 service under special contracts as of August 28, 2021, even
145 if a retail customer elects to purchase electricity from an
146 alternative electricity supplier following a fundamental
147 change in regulation of public utilities in this state. **Any**
148 **customer receiving electrical service under a commission-**
149 **approved market-based tariff with a load of at least eighty**
150 **megawatts, where the servicing electrical corporation has a**
151 **commission-approved market-based tariff as of the end of**
152 **calendar year 2022, is exempt from any securitized utility**
153 **tariff charges if the charge was approved by the commission**
154 **prior to customer energization and from any future**

155 **securitized utility tariff charges related to qualified**
156 **extraordinary costs, concerning energy, if the customer**
157 **directly incurred costs for its own energy through a**
158 **commission-approved market-based tariff. No such exemption**
159 **shall apply to electrical service that is not received by**
160 **the customer under a commission-approved market-based tariff;**

161 (17) "Securitized utility tariff costs", either energy
162 transition costs or qualified extraordinary costs as the
163 case may be;

164 (18) "Securitized utility tariff property", all of the
165 following:

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

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

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

184 2. (1) An electrical corporation may petition the
185 commission for a financing order to finance energy
186 transition costs through an issuance of securitized utility

187 tariff bonds. The petition shall include all of the
188 following:

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

199 (b) The energy transition costs;

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

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

213 (e) An estimate of the securitized utility tariff
214 charges necessary to recover the securitized utility tariff
215 costs and financing costs and the period for recovery of
216 such costs;

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

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

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

236 (h) Direct testimony supporting the petition.

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

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

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

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

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

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

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

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

281 (g) Direct testimony supporting the petition.

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

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

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

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

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

314 **contract counsel, financial advisors, or other consultants**
315 **as necessary for effectuating the purposes of this section.**
316 **Such contracting procedures shall not be subject to the**
317 **provisions of chapter 34, however the commission shall**
318 **establish a policy for the bid process. Such policy shall**
319 **be publicly available and any information related to**
320 **contracts under the established policy shall be included in**
321 **publicly available rate case documentation.**

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

325 a. The amount of securitized utility tariff costs to
326 be financed using securitized utility tariff bonds and a
327 finding that recovery of such costs is just and reasonable
328 and in the public interest. The commission shall describe
329 and estimate the amount of financing costs that may be
330 recovered through securitized utility tariff charges and
331 specify the period over which securitized utility tariff
332 costs and financing costs may be recovered;

333 b. A finding that the proposed issuance of securitized
334 utility tariff bonds and the imposition and collection of a
335 securitized utility tariff charge are just and reasonable
336 and in the public interest and are expected to provide
337 quantifiable net present value benefits to customers as
338 compared to recovery of the components of securitized
339 utility tariff costs that would have been incurred absent
340 the issuance of securitized utility tariff bonds.

341 Notwithstanding any provisions of this section to the
342 contrary, in considering whether to find the proposed
343 issuance of securitized utility tariff bonds and the
344 imposition and collection of a securitized utility tariff
345 charge are just and reasonable and in the public interest,

346 the commission may consider previous instances where it has
347 issued financing orders to the petitioning electrical
348 corporation and such electrical corporation has previously
349 issued securitized utility tariff bonds;

350 c. A finding that the proposed structuring and pricing
351 of the securitized utility tariff bonds are reasonably
352 expected to result in the lowest securitized utility tariff
353 charges consistent with market conditions at the time the
354 securitized utility tariff bonds are priced and the terms of
355 the financing order;

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

378 e. A formula-based true-up mechanism for making, at
379 least annually, expeditious periodic adjustments in the
380 securitized utility tariff charges that customers are
381 required to pay pursuant to the financing order and for
382 making any adjustments that are necessary to correct for any
383 overcollection or undercollection of the charges or to
384 otherwise ensure the timely payment of securitized utility
385 tariff bonds and financing costs and other required amounts
386 and charges payable under the securitized utility tariff
387 bonds;

388 f. The securitized utility tariff property that is, or
389 shall be, created in favor of an electrical corporation or
390 its successors or assignees and that shall be used to pay or
391 secure securitized utility tariff bonds and approved
392 financing costs;

393 g. The degree of flexibility to be afforded to the
394 electrical corporation in establishing the terms and
395 conditions of the securitized utility tariff bonds,
396 including, but not limited to, repayment schedules, expected
397 interest rates, and other financing costs;

398 h. How securitized utility tariff charges will be
399 allocated among retail customer classes. The initial
400 allocation shall remain in effect until the electrical
401 corporation completes a general rate proceeding, and once
402 the commission's order from that general rate proceeding
403 becomes final, all subsequent applications of an adjustment
404 mechanism regarding securitized utility tariff charges shall
405 incorporate changes in the allocation of costs to customers
406 as detailed in the commission's order from the electrical
407 corporation's most recent general rate proceeding;

408 i. A requirement that, after the final terms of an
409 issuance of securitized utility tariff bonds have been

410 established and before the issuance of securitized utility
411 tariff bonds, the electrical corporation determines the
412 resulting initial securitized utility tariff charge in
413 accordance with the financing order, and that such initial
414 securitized utility tariff charge be final and effective
415 upon the issuance of such securitized utility tariff bonds
416 with such charge to be reflected on a compliance tariff
417 sheet bearing such charge;

418 j. A method of tracing funds collected as securitized
419 utility tariff charges, or other proceeds of securitized
420 utility tariff property, determining that such method shall
421 be deemed the method of tracing such funds and determining
422 the identifiable cash proceeds of any securitized utility
423 tariff property subject to a financing order under
424 applicable law;

425 k. A statement specifying a future ratemaking process
426 to reconcile any differences between the actual securitized
427 utility tariff costs financed by securitized utility tariff
428 bonds and the final securitized utility tariff costs
429 incurred by the electrical corporation or assignee provided
430 that any such reconciliation shall not affect the amount of
431 securitized utility tariff bonds or the associated
432 securitized utility tariff charges paid by customers;

433 l. A procedure that shall allow the electrical
434 corporation to earn a return, at the cost of capital
435 authorized from time to time by the commission in the
436 electrical corporation's rate proceedings, on any moneys
437 advanced by the electrical corporation to fund reserves, if
438 any, or capital accounts established under the terms of any
439 indenture, ancillary agreement, or other financing documents
440 pertaining to the securitized utility tariff bonds;

441 m. In a financing order granting authorization to
442 securitize energy transition costs or in a financing order
443 granting authorization to securitize qualified extraordinary
444 costs that include retired or abandoned facility costs, a
445 procedure for the treatment of accumulated deferred income
446 taxes and excess deferred income taxes in connection with
447 the retired or abandoned or to be retired or abandoned
448 electric generating facility, or in connection with retired
449 or abandoned facilities included in qualified extraordinary
450 costs. The accumulated deferred income taxes, including
451 excess deferred income taxes, shall be excluded from rate
452 base in future general rate cases and the net tax benefits
453 relating to amounts that will be recovered through the
454 issuance of securitized utility tariff bonds shall be
455 credited to retail customers by reducing the amount of such
456 securitized utility tariff bonds that would otherwise be
457 issued. The customer credit shall include the net present
458 value of the tax benefits, calculated using a discount rate
459 equal to the expected interest rate of the securitized
460 utility tariff bonds, for the estimated accumulated and
461 excess deferred income taxes at the time of securitization
462 including timing differences created by the issuance of
463 securitized utility tariff bonds amortized over the period
464 of the bonds multiplied by the expected interest rate on
465 such securitized utility tariff bonds;

466 n. An outside date, which shall not be earlier than
467 one year after the date the financing order is no longer
468 subject to appeal, when the authority to issue securitized
469 utility tariff bonds granted in such financing order shall
470 expire; and

471 o. Include any other conditions that the commission
472 considers appropriate and that are not inconsistent with
473 this section.

474 (d) A financing order issued to an electrical
475 corporation may provide that creation of the electrical
476 corporation's securitized utility tariff property is
477 conditioned upon, and simultaneous with, the sale or other
478 transfer of the securitized utility tariff property to an
479 assignee and the pledge of the securitized utility tariff
480 property to secure securitized utility tariff bonds.

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

503 electrical corporation of mathematical or clerical errors in
504 its calculation, the electrical corporation shall correct
505 its error and refile its request. The time frames
506 previously described in this paragraph shall apply to a
507 refiled request.

508 (f) At the time of any transfer of securitized utility
509 tariff property to an assignee or the issuance of
510 securitized utility tariff bonds authorized thereby,
511 whichever is earlier, a financing order is irrevocable and,
512 except for changes made pursuant to the formula-based true-
513 up mechanism authorized in this section, the commission may
514 not amend, modify, or terminate the financing order by any
515 subsequent action or reduce, impair, postpone, terminate, or
516 otherwise adjust securitized utility tariff charges approved
517 in the financing order. After the issuance of a financing
518 order, the electrical corporation retains sole discretion
519 regarding whether to assign, sell, or otherwise transfer
520 securitized utility tariff property or to cause securitized
521 utility tariff bonds to be issued, including the right to
522 defer or postpone such assignment, sale, transfer, or
523 issuance.

524 (g) The commission, in a financing order and subject
525 to the issuance advice letter process under paragraph (h) of
526 this subdivision, shall specify the degree of flexibility to
527 be afforded the electrical corporation in establishing the
528 terms and conditions for the securitized utility tariff
529 bonds to accommodate changes in market conditions, including
530 repayment schedules, interest rates, financing costs,
531 collateral requirements, required debt service and other
532 reserves and the ability of the electrical corporation, at
533 its option, to effect a series of issuances of securitized
534 utility tariff bonds and correlated assignments, sales,

535 pledges, or other transfers of securitized utility tariff
536 property. Any changes made under this paragraph to terms
537 and conditions for the securitized utility tariff bonds
538 shall be in conformance with the financing order.

539 (h) As the actual structure and pricing of the
540 securitized utility tariff bonds will be unknown at the time
541 the financing order is issued, prior to the issuance of each
542 series of bonds, an issuance advice letter shall be provided
543 to the commission by the electrical corporation following
544 the determination of the final terms of such series of bonds
545 no later than one day after the pricing of the securitized
546 utility tariff bonds. The commission shall have the
547 authority to designate a representative or representatives
548 from commission staff, who may be advised by a financial
549 advisor or advisors contracted with the commission, to
550 provide input to the electrical corporation and collaborate
551 with the electrical corporation in all facets of the process
552 undertaken by the electrical corporation to place the
553 securitized utility tariff bonds to market so the
554 commission's representative or representatives can provide
555 the commission with an opinion on the reasonableness of the
556 pricing, terms, and conditions of the securitized utility
557 tariff bonds on an expedited basis. Neither the designated
558 representative or representatives from the commission staff
559 nor one or more financial advisors advising commission staff
560 shall have authority to direct how the electrical
561 corporation places the bonds to market although they shall
562 be permitted to attend all meetings convened by the
563 electrical corporation to address placement of the bonds to
564 market. The form of such issuance advice letter shall be
565 included in the financing order and shall indicate the final
566 structure of the securitized utility tariff bonds and

567 provide the best available estimate of total ongoing
568 financing costs. The issuance advice letter shall report
569 the initial securitized utility tariff charges and other
570 information specific to the securitized utility tariff bonds
571 to be issued, as the commission may require. Unless an
572 earlier date is specified in the financing order, the
573 electrical corporation may proceed with the issuance of the
574 securitized utility tariff bonds unless, prior to noon on
575 the fourth business day after the commission receives the
576 issuance advice letter, the commission issues a disapproval
577 letter directing that the bonds as proposed shall not be
578 issued and the basis for that disapproval. The financing
579 order may provide such additional provisions relating to the
580 issuance advice letter process as the commission considers
581 appropriate and as are not inconsistent with this section.

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

598 and shall be included in the securitized utility tariff
599 charge.

600 (b) If an electrical corporation's petition for a
601 financing order is denied or withdrawn, or for any reason
602 securitized utility tariff bonds are not issued, any costs
603 of retaining one or more financial advisors, one or more
604 consultants, and counsel on behalf of the commission shall
605 be paid by the petitioning electrical corporation and shall
606 be eligible for full recovery, including carrying costs, if
607 approved by the commission in the electrical corporation's
608 future rates.

609 (5) At the request of an electrical corporation, the
610 commission may commence a proceeding and issue a subsequent
611 financing order that provides for refinancing, retiring, or
612 refunding securitized utility tariff bonds issued pursuant
613 to the original financing order if the commission finds that
614 the subsequent financing order satisfies all of the criteria
615 specified in this section for a financing order. Effective
616 upon retirement of the refunded securitized utility tariff
617 bonds and the issuance of new securitized utility tariff
618 bonds, the commission shall adjust the related securitized
619 utility tariff charges accordingly.

620 (6) (a) A financing order remains in effect and
621 securitized utility tariff property under the financing
622 order continues to exist until securitized utility tariff
623 bonds issued pursuant to the financing order have been paid
624 in full or defeased and, in each case, all commission-
625 approved financing costs of such securitized utility tariff
626 bonds have been recovered in full.

627 (b) A financing order issued to an electrical
628 corporation remains in effect and unabated notwithstanding
629 the reorganization, bankruptcy, or other insolvency

630 proceedings, merger, or sale of the electrical corporation
631 or its successors or assignees.

632 3. (1) The commission may not, in exercising its
633 powers and carrying out its duties regarding any matter
634 within its authority, consider the securitized utility
635 tariff bonds issued pursuant to a financing order to be the
636 debt of the electrical corporation other than for federal
637 and state income tax purposes, consider the securitized
638 utility tariff charges paid under the financing order to be
639 the revenue of the electrical corporation for any purpose,
640 consider the securitized utility tariff costs or financing
641 costs specified in the financing order to be the costs of
642 the electrical corporation, nor may the commission determine
643 any action taken by an electrical corporation which is
644 consistent with the financing order to be unjust or
645 unreasonable, and section 386.300 shall not apply to the
646 issuance of securitized utility tariff bonds.

647 (2) Securitized utility tariff charges shall not be
648 utilized or accounted for in determining the electrical
649 corporation's average overall rate, as defined in section
650 393.1655 and as used to determine the maximum retail rate
651 impact limitations provided for by subsections 3 and 4 of
652 section 393.1655.

653 (3) No electrical corporation is required to file a
654 petition for a financing order under this section or
655 otherwise utilize this section. An electrical corporation's
656 decision not to file a petition for a financing order under
657 this section shall not be admissible in any commission
658 proceeding nor shall it be otherwise utilized or relied on
659 by the commission in any proceeding respecting the
660 electrical corporation's rates or its accounting, including,
661 without limitation, any general rate proceeding, fuel

662 adjustment clause docket, or proceedings relating to
663 accounting authority, whether initiated by the electrical
664 corporation or otherwise. The commission may not order or
665 otherwise directly or indirectly require an electrical
666 corporation to use securitized utility tariff bonds to
667 recover securitized utility tariff costs or to finance any
668 project, addition, plant, facility, extension, capital
669 improvement, equipment, or any other expenditure.

670 (4) The commission may not refuse to allow an
671 electrical corporation to recover securitized utility tariff
672 costs in an otherwise permissible fashion, or refuse or
673 condition authorization or approval of the issuance and sale
674 by an electrical corporation of securities or the assumption
675 by the electrical corporation of liabilities or obligations,
676 because of the potential availability of securitized utility
677 tariff bond financing.

678 (5) After the issuance of a financing order with or
679 without conditions, the electrical corporation retains sole
680 discretion regarding whether to cause the securitized
681 utility tariff bonds to be issued, including the right to
682 defer or postpone such sale, assignment, transfer, or
683 issuance. Nothing shall prevent the electrical corporation
684 from abandoning the issuance of securitized utility tariff
685 bonds under the financing order by filing with the
686 commission a statement of abandonment and the reasons
687 therefor; provided, that the electrical corporation's
688 abandonment decision shall not be deemed imprudent because
689 of the potential availability of securitized utility tariff
690 bond financing; and provided further, that an electrical
691 corporation's decision to abandon issuance of such bonds may
692 be raised by any party, including the commission, as a
693 reason the commission should not authorize, or should

694 modify, the rate-making treatment proposed by the electrical
695 corporation of the costs associated with the electric
696 generating facility that was the subject of a petition under
697 this section that would have been securitized as energy
698 transition costs had such abandonment decision not been
699 made, but only if the electrical corporation requests
700 nonstandard plant retirement treatment of such costs for
701 rate-making purposes.

702 (6) The commission may not, directly or indirectly,
703 utilize or consider the debt reflected by the securitized
704 utility tariff bonds in establishing the electrical
705 corporation's capital structure used to determine any
706 regulatory matter, including but not limited to the
707 electrical corporation's revenue requirement used to set its
708 rates.

709 (7) The commission may not, directly or indirectly,
710 consider the existence of securitized utility tariff bonds
711 or the potential use of securitized utility tariff bond
712 financing proceeds in determining the electrical
713 corporation's authorized rate of return used to determine
714 the electrical corporation's revenue requirement used to set
715 its rates.

716 4. The electric bills of an electrical corporation
717 that has obtained a financing order and caused securitized
718 utility tariff bonds to be issued shall comply with the
719 provisions of this subsection; however, the failure of an
720 electrical corporation to comply with this subsection does
721 not invalidate, impair, or affect any financing order,
722 securitized utility tariff property, securitized utility
723 tariff charge, or securitized utility tariff bonds. The
724 electrical corporation shall do the following:

725 (1) Explicitly reflect that a portion of the charges
726 on such bill represents securitized utility tariff charges
727 approved in a financing order issued to the electrical
728 corporation and, if the securitized utility tariff property
729 has been transferred to an assignee, shall include a
730 statement to the effect that the assignee is the owner of
731 the rights to securitized utility tariff charges and that
732 the electrical corporation or other entity, if applicable,
733 is acting as a collection agent or servicer for the
734 assignee. The tariff applicable to customers shall indicate
735 the securitized utility tariff charge and the ownership of
736 the charge;

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

740 5. (1) (a) All securitized utility tariff property
741 that is specified in a financing order constitutes an
742 existing, present intangible property right or interest
743 therein, notwithstanding that the imposition and collection
744 of securitized utility tariff charges depends on the
745 electrical corporation, to which the financing order is
746 issued, performing its servicing functions relating to the
747 collection of securitized utility tariff charges and on
748 future electricity consumption. The property exists:

749 a. Regardless of whether or not the revenues or
750 proceeds arising from the property have been billed, have
751 accrued, or have been collected; and

752 b. Notwithstanding the fact that the value or amount
753 of the property is dependent on the future provision of
754 service to customers by the electrical corporation or its
755 successors or assignees and the future consumption of
756 electricity by customers.

757 (b) Securitized utility tariff property specified in a
758 financing order exists until securitized utility tariff
759 bonds issued pursuant to the financing order are paid in
760 full and all financing costs and other costs of such
761 securitized utility tariff bonds have been recovered in full.

762 (c) All or any portion of securitized utility tariff
763 property specified in a financing order issued to an
764 electrical corporation may be transferred, sold, conveyed,
765 or assigned to a successor or assignee that is wholly owned,
766 directly or indirectly, by the electrical corporation and
767 created for the limited purpose of acquiring, owning, or
768 administering securitized utility tariff property or issuing
769 securitized utility tariff bonds under the financing order.
770 All or any portion of securitized utility tariff property
771 may be pledged to secure securitized utility tariff bonds
772 issued pursuant to the financing order, amounts payable to
773 financing parties and to counterparties under any ancillary
774 agreements, and other financing costs. Any transfer, sale,
775 conveyance, assignment, grant of a security interest in or
776 pledge of securitized utility tariff property by an
777 electrical corporation, or an affiliate of the electrical
778 corporation, to an assignee, to the extent previously
779 authorized in a financing order, does not require the prior
780 consent and approval of the commission.

781 (d) If an electrical corporation defaults on any
782 required remittance of securitized utility tariff charges
783 arising from securitized utility tariff property specified
784 in a financing order, a court, upon application by an
785 interested party, and without limiting any other remedies
786 available to the applying party, shall order the
787 sequestration and payment of the revenues arising from the
788 securitized utility tariff property to the financing parties

789 or their assignees. Any such financing order remains in
790 full force and effect notwithstanding any reorganization,
791 bankruptcy, or other insolvency proceedings with respect to
792 the electrical corporation or its successors or assignees.

793 (e) The interest of a transferee, purchaser, acquirer,
794 assignee, or pledgee in securitized utility tariff property
795 specified in a financing order issued to an electrical
796 corporation, and in the revenue and collections arising from
797 that property, is not subject to setoff, counterclaim,
798 surcharge, or defense by the electrical corporation or any
799 other person or in connection with the reorganization,
800 bankruptcy, or other insolvency of the electrical
801 corporation or any other entity.

802 (f) Any successor to an electrical corporation,
803 whether pursuant to any reorganization, bankruptcy, or other
804 insolvency proceeding or whether pursuant to any merger or
805 acquisition, sale, or other business combination, or
806 transfer by operation of law, as a result of electrical
807 corporation restructuring or otherwise, shall perform and
808 satisfy all obligations of, and have the same rights under a
809 financing order as, the electrical corporation under the
810 financing order in the same manner and to the same extent as
811 the electrical corporation, including collecting and paying
812 to the person entitled to receive the revenues, collections,
813 payments, or proceeds of the securitized utility tariff
814 property. Nothing in this section is intended to limit or
815 impair any authority of the commission concerning the
816 transfer or succession of interests of public utilities.

817 (g) Securitized utility tariff bonds shall be
818 nonrecourse to the credit or any assets of the electrical
819 corporation other than the securitized utility tariff

820 property as specified in the financing order and any rights
821 under any ancillary agreement.

822 (2) (a) The creation, perfection, priority, and
823 enforcement of any security interest in securitized utility
824 tariff property to secure the repayment of the principal and
825 interest and other amounts payable in respect of securitized
826 utility tariff bonds, amounts payable under any ancillary
827 agreement and other financing costs are governed by this
828 section and not by the provisions of the code, except as
829 otherwise provided in this section.

830 (b) A security interest in securitized utility tariff
831 property is created, valid, and binding at the later of the
832 time:

833 a. The financing order is issued;

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

836 c. The debtor has rights in such securitized utility
837 tariff property or the power to transfer rights in such
838 securitized utility tariff property; or

839 d. Value is received for the securitized utility
840 tariff property.

841 The description of securitized utility tariff property in a
842 security agreement is sufficient if the description refers
843 to this section and the financing order creating the
844 securitized utility tariff property. A security interest
845 shall attach as provided in this paragraph without any
846 physical delivery of collateral or other act.

847 (c) Upon the filing of a financing statement with the
848 office of the secretary of state as provided in this
849 section, a security interest in securitized utility tariff
850 property shall be perfected against all parties having

851 claims of any kind in tort, contract, or otherwise against
852 the person granting the security interest, and regardless of
853 whether the parties have notice of the security interest.
854 Without limiting the foregoing, upon such filing a security
855 interest in securitized utility tariff property shall be
856 perfected against all claims of lien creditors, and shall
857 have priority over all competing security interests and
858 other claims other than any security interest previously
859 perfected in accordance with this section.

860 (d) The priority of a security interest in securitized
861 utility tariff property is not affected by the commingling
862 of securitized utility tariff charges with other amounts.
863 Any pledgee or secured party shall have a perfected security
864 interest in the amount of all securitized utility tariff
865 charges that are deposited in any cash or deposit account of
866 the qualifying electrical corporation in which securitized
867 utility tariff charges have been commingled with other funds
868 and any other security interest that may apply to those
869 funds shall be terminated when they are transferred to a
870 segregated account for the assignee or a financing party.

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

875 (f) If a default occurs under the securitized utility
876 tariff bonds that are secured by a security interest in
877 securitized utility tariff property, the financing parties
878 or their representatives may exercise the rights and
879 remedies available to a secured party under the code,
880 including the rights and remedies available under part 6 of
881 article 9 of the code. The commission may also order
882 amounts arising from securitized utility tariff charges be

883 transferred to a separate account for the financing parties'
884 benefit, to which their lien and security interest shall
885 apply. On application by or on behalf of the financing
886 parties, the circuit court for the county or city in which
887 the electrical corporation's headquarters is located shall
888 order the sequestration and payment to them of revenues
889 arising from the securitized utility tariff charges.

890 (3) (a) Any sale, assignment, or other transfer of
891 securitized utility tariff property shall be an absolute
892 transfer and true sale of, and not a pledge of or secured
893 transaction relating to, the seller's right, title, and
894 interest in, to, and under the securitized utility tariff
895 property if the documents governing the transaction
896 expressly state that the transaction is a sale or other
897 absolute transfer other than for federal and state income
898 tax purposes. For all purposes other than federal and state
899 income tax purposes, the parties' characterization of a
900 transaction as a sale of an interest in securitized utility
901 tariff property shall be conclusive that the transaction is
902 a true sale and that ownership has passed to the party
903 characterized as the purchaser, regardless of whether the
904 purchaser has possession of any documents evidencing or
905 pertaining to the interest. A sale or similar outright
906 transfer of an interest in securitized utility tariff
907 property may occur only when all of the following have
908 occurred:

909 a. The financing order creating the securitized
910 utility tariff property has become effective;

911 b. The documents evidencing the transfer of
912 securitized utility tariff property have been executed by
913 the assignor and delivered to the assignee; and

914 c. Value is received for the securitized utility
915 tariff property.

916 After such a transaction, the securitized utility tariff
917 property is not subject to any claims of the transferor or
918 the transferor's creditors, other than creditors holding a
919 prior security interest in the securitized utility tariff
920 property perfected in accordance with this section.

921 (b) The characterization of the sale, assignment, or
922 other transfer as an absolute transfer and true sale and the
923 corresponding characterization of the property interest of
924 the purchaser shall not be affected or impaired by the
925 occurrence of any of the following factors:

926 a. Commingling of securitized utility tariff charges
927 with other amounts;

928 b. The retention by the seller of (i) a partial or
929 residual interest, including an equity interest, in the
930 securitized utility tariff property, whether direct or
931 indirect, or whether subordinate or otherwise, or (ii) the
932 right to recover costs associated with taxes, franchise
933 fees, or license fees imposed on the collection of
934 securitized utility tariff charges;

935 c. Any recourse that the purchaser may have against
936 the seller;

937 d. Any indemnification rights, obligations, or
938 repurchase rights made or provided by the seller;

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

941 f. The transferor acting as the servicer of the
942 securitized utility tariff charges or the existence of any
943 contract that authorizes or requires the electrical
944 corporation, to the extent that any interest in securitized

945 utility tariff property is sold or assigned, to contract
946 with the assignee or any financing party that it will
947 continue to operate its system to provide service to its
948 customers, will collect amounts in respect of the
949 securitized utility tariff charges for the benefit and
950 account of such assignee or financing party, and will
951 account for and remit such amounts to or for the account of
952 such assignee or financing party;

953 g. The treatment of the sale, conveyance, assignment,
954 or other transfer for tax, financial reporting, or other
955 purposes;

956 h. The granting or providing to bondholders a
957 preferred right to the securitized utility tariff property
958 or credit enhancement by the electrical corporation or its
959 affiliates with respect to such securitized utility tariff
960 bonds;

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

963 (c) Any right that an electrical corporation has in
964 the securitized utility tariff property before its pledge,
965 sale, or transfer or any other right created under this
966 section or created in the financing order and assignable
967 under this section or assignable pursuant to a financing
968 order is property in the form of a contract right or a chose
969 in action. Transfer of an interest in securitized utility
970 tariff property to an assignee is enforceable only upon the
971 later of:

972 a. The issuance of a financing order;

973 b. The assignor having rights in such securitized
974 utility tariff property or the power to transfer rights in
975 such securitized utility tariff property to an assignee;

976 c. The execution and delivery by the assignor of
977 transfer documents in connection with the issuance of
978 securitized utility tariff bonds; and

979 d. The receipt of value for the securitized utility
980 tariff property.

981 An enforceable transfer of an interest in securitized
982 utility tariff property to an assignee is perfected against
983 all third parties, including subsequent judicial or other
984 lien creditors, when a notice of that transfer has been
985 given by the filing of a financing statement in accordance
986 with subsection 7 of this section. The transfer is
987 perfected against third parties as of the date of filing.

988 (d) The priority of a transfer perfected under this
989 section is not impaired by any later modification of the
990 financing order or securitized utility tariff property or by
991 the commingling of funds arising from securitized utility
992 tariff property with other funds. Any other security
993 interest that may apply to those funds, other than a
994 security interest perfected under this section, is
995 terminated when they are transferred to a segregated account
996 for the assignee or a financing party. If securitized
997 utility tariff property has been transferred to an assignee
998 or financing party, any proceeds of that property shall be
999 held in trust for the assignee or financing party.

1000 (e) The priority of the conflicting interests of
1001 assignees in the same interest or rights in any securitized
1002 utility tariff property is determined as follows:

1003 a. Conflicting perfected interests or rights of
1004 assignees rank according to priority in time of perfection.
1005 Priority dates from the time a filing covering the transfer
1006 is made in accordance with subsection 7 of this section;

1007 b. A perfected interest or right of an assignee has
1008 priority over a conflicting unperfected interest or right of
1009 an assignee;

1010 c. A perfected interest or right of an assignee has
1011 priority over a person who becomes a lien creditor after the
1012 perfection of such assignee's interest or right.

1013 6. The description of securitized utility tariff
1014 property being transferred to an assignee in any sale
1015 agreement, purchase agreement, or other transfer agreement,
1016 granted or pledged to a pledgee in any security agreement,
1017 pledge agreement, or other security document, or indicated
1018 in any financing statement is only sufficient if such
1019 description or indication refers to the financing order that
1020 created the securitized utility tariff property and states
1021 that the agreement or financing statement covers all or part
1022 of the property described in the financing order. This
1023 section applies to all purported transfers of, and all
1024 purported grants or liens or security interests in,
1025 securitized utility tariff property, regardless of whether
1026 the related sale agreement, purchase agreement, other
1027 transfer agreement, security agreement, pledge agreement, or
1028 other security document was entered into, or any financing
1029 statement was filed.

1030 7. The secretary of state shall maintain any financing
1031 statement filed to perfect a sale or other transfer of
1032 securitized utility tariff property and any security
1033 interest in securitized utility tariff property under this
1034 section in the same manner that the secretary of state
1035 maintains financing statements filed under the code to
1036 perfect a security interest in collateral owned by a
1037 transmitting utility. Except as otherwise provided in this
1038 section, all financing statements filed pursuant to this

1039 section shall be governed by the provisions regarding
1040 financing statements and the filing thereof under the code,
1041 including part 5 of article 9 of the code. A security
1042 interest in securitized utility tariff property may be
1043 perfected only by the filing of a financing statement in
1044 accordance with this section, and no other method of
1045 perfection shall be effective. Notwithstanding any
1046 provision of the code to the contrary, a financing statement
1047 filed pursuant to this section is effective until a
1048 termination statement is filed under the code, and no
1049 continuation statement need be filed to maintain its
1050 effectiveness. A financing statement filed pursuant to this
1051 section may indicate that the debtor is a transmitting
1052 utility, and without regard to whether the debtor is an
1053 electrical corporation, an assignee or otherwise qualifies
1054 as a transmitting utility under the code, but the failure to
1055 make such indication shall not impair the duration and
1056 effectiveness of the financing statement.

1057 8. The law governing the validity, enforceability,
1058 attachment, perfection, priority, and exercise of remedies
1059 with respect to the transfer of an interest or right or the
1060 pledge or creation of a security interest in any securitized
1061 utility tariff property shall be the laws of this state.

1062 9. Neither the state nor its political subdivisions
1063 are liable on any securitized utility tariff bonds, and the
1064 bonds are not a debt or a general obligation of the state or
1065 any of its political subdivisions, agencies, or
1066 instrumentalities, nor are they special obligations or
1067 indebtedness of the state or any agency or political
1068 subdivision. An issue of securitized utility tariff bonds
1069 does not, directly, indirectly, or contingently, obligate
1070 the state or any agency, political subdivision, or

1071 instrumentality of the state to levy any tax or make any
1072 appropriation for payment of the securitized utility tariff
1073 bonds, other than in their capacity as consumers of
1074 electricity. All securitized utility tariff bonds shall
1075 contain on the face thereof a statement to the following
1076 effect: "Neither the full faith and credit nor the taxing
1077 power of the state of Missouri is pledged to the payment of
1078 the principal of, or interest on, this bond."

1079 10. All of the following entities may legally invest
1080 any sinking funds, moneys, or other funds in securitized
1081 utility tariff bonds:

1082 (1) Subject to applicable statutory restrictions on
1083 state or local investment authority, the state, units of
1084 local government, political subdivisions, public bodies, and
1085 public officers, except for members of the commission, the
1086 commission's technical advisory and other staff, or
1087 employees of the office of the public counsel;

1088 (2) Banks and bankers, savings and loan associations,
1089 credit unions, trust companies, savings banks and
1090 institutions, investment companies, insurance companies,
1091 insurance associations, and other persons carrying on a
1092 banking or insurance business;

1093 (3) Personal representatives, guardians, trustees, and
1094 other fiduciaries;

1095 (4) All other persons authorized to invest in bonds or
1096 other obligations of a similar nature.

1097 11. (1) The state and its agencies, including the
1098 commission, pledge and agree with bondholders, the owners of
1099 the securitized utility tariff property, and other financing
1100 parties that the state and its agencies will not take any
1101 action listed in this subdivision. This subdivision does
1102 not preclude limitation or alteration if full compensation

1103 is made by law for the full protection of the securitized
1104 utility tariff charges collected pursuant to a financing
1105 order and of the bondholders and any assignee or financing
1106 party entering into a contract with the electrical
1107 corporation. The prohibited actions are as follows:

1108 (a) Alter the provisions of this section, which
1109 authorize the commission to create an irrevocable contract
1110 right or chose in action by the issuance of a financing
1111 order, to create securitized utility tariff property, and
1112 make the securitized utility tariff charges imposed by a
1113 financing order irrevocable, binding, or nonbypassable
1114 charges for all existing and future retail customers of the
1115 electrical corporation except its existing special contract
1116 customers;

1117 (b) Take or permit any action that impairs or would
1118 impair the value of securitized utility tariff property or
1119 the security for the securitized utility tariff bonds or
1120 revises the securitized utility tariff costs for which
1121 recovery is authorized;

1122 (c) In any way impair the rights and remedies of the
1123 bondholders, assignees, and other financing parties;

1124 (d) Except for changes made pursuant to the formula-
1125 based true-up mechanism authorized under this section,
1126 reduce, alter, or impair securitized utility tariff charges
1127 that are to be imposed, billed, charged, collected, and
1128 remitted for the benefit of the bondholders, any assignee,
1129 and any other financing parties until any and all principal,
1130 interest, premium, financing costs and other fees, expenses,
1131 or charges incurred, and any contracts to be performed, in
1132 connection with the related securitized utility tariff bonds
1133 have been paid and performed in full.

1134 (2) Any person or entity that issues securitized
1135 utility tariff bonds may include the language specified in
1136 this subsection in the securitized utility tariff bonds and
1137 related documentation.

1138 12. An assignee or financing party is not an
1139 electrical corporation or person providing electric service
1140 by virtue of engaging in the transactions described in this
1141 section.

1142 13. If there is a conflict between this section and
1143 any other law regarding the attachment, assignment, or
1144 perfection, or the effect of perfection, or priority of,
1145 assignment or transfer of, or security interest in
1146 securitized utility tariff property, this section shall
1147 govern.

1148 14. If any provision of this section is held invalid
1149 or is invalidated, superseded, replaced, repealed, or
1150 expires for any reason, that occurrence does not affect the
1151 validity of any action allowed under this section which is
1152 taken by an electrical corporation, an assignee, a financing
1153 party, a collection agent, or a party to an ancillary
1154 agreement; and any such action remains in full force and
1155 effect with respect to all securitized utility tariff bonds
1156 issued or authorized in a financing order issued under this
1157 section before the date that such provision is held invalid
1158 or is invalidated, superseded, replaced, or repealed, or
1159 expires for any reason.

 640.144. 1. All community water systems shall be
2 required to create a valve inspection program that includes:

3 (1) Inspection of all valves every ten years;

4 (2) Scheduled repair or replacement of broken valves;

5 and

6 (3) Within five years of August 28, 2020,
7 identification of each shut-off valve location using a
8 geographic information system or an alternative physical
9 mapping system that accurately identifies the location of
10 each valve.

11 2. All community water systems shall be required to
12 create a hydrant inspection program that includes:

13 (1) **[Annual] Scheduled** testing of every hydrant in the
14 community water system;

15 (2) Scheduled repair or replacement of broken hydrants;

16 (3) A plan to flush every hydrant and dead-end main;

17 (4) Maintenance of records of inspections, tests, and
18 flushings for six years; and

19 (5) Within five years of August 28, 2020,
20 identification of each hydrant location using a geographic
21 information system or an alternative physical mapping system
22 that accurately identifies the location of each hydrant.

23 3. The provisions of this section shall not apply to
24 any state parks, cities with a population of more than
25 thirty thousand inhabitants, a county with a charter form of
26 government and with more than six hundred thousand but fewer
27 than seven hundred thousand inhabitants, a county with a
28 charter form of government and with more than nine hundred
29 fifty thousand inhabitants, or a public service commission
30 regulated utility with more than thirty thousand customers.

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