

SENATE SUBSTITUTE  
FOR  
SENATE COMMITTEE SUBSTITUTE  
FOR  
SENATE BILL NO. 202  
AN ACT

To repeal sections 386.370, 393.106, 394.120, and 400.9-109, RSMo, and to enact in lieu thereof eight new sections relating to electrical corporations.

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

Section A. Sections 386.370, 393.106, 394.120, and 400.9-  
2 109, RSMo, are repealed and eight new sections enacted in lieu  
3 thereof, to be known as sections 386.370, 393.106, 393.1620,  
4 393.1700, 393.1705, 393.1715, 394.120, and 400.9-109, to read  
5 as follows:

386.370. 1. The commission shall, prior to the  
2 beginning of each fiscal year beginning with the fiscal year  
3 commencing on July 1, 1947, make an estimate of the expenses  
4 to be incurred by it during such fiscal year reasonably  
5 attributable to the regulation of public utilities as  
6 provided in chapters 386, 392 and 393 and shall also  
7 separately estimate the amount of such expenses directly  
8 attributable to such regulation of each of the following  
9 groups of public utilities: Electrical corporations, gas  
10 corporations, water corporations, heating companies and  
11 telephone corporations, telegraph corporations, sewer  
12 corporations, and any other public utility as defined in  
13 section 386.020, as well as the amount of such expenses not  
14 directly attributable to any such group. For purposes of  
15 this section, water corporations and sewer corporations will  
16 be combined and considered one group of public utilities.

17           2. The commission shall allocate to each such group of  
18 public utilities the estimated expenses directly  
19 attributable to the regulation of such group and an amount  
20 equal to such proportion of the estimated expenses not  
21 directly attributable to any group as the gross intrastate  
22 operating revenues of such group during the preceding  
23 calendar year bears to the total gross intrastate operating  
24 revenues of all public utilities subject to the jurisdiction  
25 of the commission, as aforesaid, during such calendar year.  
26 The commission shall then assess the amount so allocated to  
27 each group of public utilities, subject to reduction as  
28 herein provided, to the public utilities in such group in  
29 proportion to their respective gross intrastate operating  
30 revenues during the preceding calendar year, except that the  
31 total amount so assessed to all such public utilities shall  
32 not exceed [one-fourth] three hundred fifteen thousandths of  
33 one percent of the total gross intrastate operating revenues  
34 of all utilities subject to the jurisdiction of the  
35 commission.

36           3. The commission shall render a statement of such  
37 assessment to each such public utility on or before July  
38 first and the amount so assessed to each such public utility  
39 shall be paid by it to the director of revenue in full on or  
40 before July fifteenth next following the rendition of such  
41 statement, except that any such public utility may at its  
42 election pay such assessment in four equal installments not  
43 later than the following dates next following the rendition  
44 of said statement, to wit: July fifteenth, October  
45 fifteenth, January fifteenth and April fifteenth. The  
46 director of revenue shall remit such payments to the state  
47 treasurer.

48           4. The state treasurer shall credit such payments to a  
49 special fund, which is hereby created, to be known as "The

50 Public Service Commission Fund", which fund, or its  
51 successor fund created pursuant to section 33.571, shall be  
52 devoted solely to the payment of expenditures actually  
53 incurred by the commission and attributable to the  
54 regulation of such public utilities subject to the  
55 jurisdiction of the commission, as aforesaid. Any amount  
56 remaining in such special fund or its successor fund at the  
57 end of any fiscal year shall not revert to the general  
58 revenue fund, but shall be applicable by appropriation of  
59 the general assembly to the payment of such expenditures of  
60 the commission in the succeeding fiscal year and shall be  
61 applied by the commission to the reduction of the amount to  
62 be assessed to such public utilities in such succeeding  
63 fiscal year, such reduction to be allocated to each group of  
64 public utilities in proportion to the respective gross  
65 intrastate operating revenues of the respective groups  
66 during the preceding calendar year.

67 5. In order to enable the commission to make the  
68 allocations and assessments herein provided for, each public  
69 utility subject to the jurisdiction of the commission as  
70 aforesaid shall file with the commission, within ten days  
71 after August 28, 1996, and thereafter on or before March  
72 thirty-first of each year, a statement under oath showing  
73 its gross intrastate operating revenues for the preceding  
74 calendar year, and if any public utility shall fail to file  
75 such statement within the time aforesaid the commission  
76 shall estimate such revenue which estimate shall be binding  
77 on such public utility for the purpose of this section.

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

3 (1) "Auxiliary power", the energy used to operate  
4 equipment and other load that is directly related to the  
5 production of energy by an independent power producer or

6 electrical corporation, obtained through generation at the  
7 site or through adjacent transformation and transmission  
8 interconnect, but does not include energy used for space  
9 heating, lighting, air conditioning, office needs of  
10 buildings, and other non-generating uses at the generation  
11 site;

12 (2) "Independent power producer", an entity that is  
13 also considered a non-utility power producer in the United  
14 States. Independent power producers are wholesale  
15 electricity producers that operate within the franchised  
16 service territories of host utilities and are usually  
17 authorized to sell at market-based rates. Unlike  
18 traditional electric utilities, independent power producers  
19 do not possess transmission facilities or sell electricity  
20 in the retail market;

21 (3) "Permanent service", electrical service provided  
22 through facilities which have been permanently installed on  
23 a structure and which are designed to provide electric  
24 service for the structure's anticipated needs for the  
25 indefinite future, as contrasted with facilities installed  
26 temporarily to provide electrical service during  
27 construction. Service provided temporarily shall be at the  
28 risk of the electrical supplier and shall not be  
29 determinative of the rights of the provider or recipient of  
30 permanent service;

31 [(2)] (4) "Structure" or "structures", an  
32 agricultural, residential, commercial, industrial or other  
33 building or a mechanical installation, machinery or  
34 apparatus at which retail electric energy is being delivered  
35 through a metering device which is located on or adjacent to  
36 the structure and connected to the lines of an electrical  
37 supplier. Such terms shall include any contiguous or  
38 adjacent additions to or expansions of a particular

39 structure. Nothing in this section shall be construed to  
40 confer any right on an electric supplier to serve new  
41 structures on a particular tract of land because it was  
42 serving an existing structure on that tract.

43 2. Once an electrical corporation or joint municipal  
44 utility commission, or its predecessor in interest, lawfully  
45 commences supplying retail electric energy to a structure  
46 through permanent service facilities, it shall have the  
47 right to continue serving such structure, and other  
48 suppliers of electrical energy shall not have the right to  
49 provide service to the structure except as might be  
50 otherwise permitted in the context of municipal annexation,  
51 pursuant to section 386.800 and section 394.080, or pursuant  
52 to a territorial agreement approved under section 394.312.  
53 The public service commission, upon application made by an  
54 affected party, may order a change of suppliers on the basis  
55 that it is in the public interest for a reason other than a  
56 rate differential. The commission's jurisdiction under this  
57 section is limited to public interest determinations and  
58 excludes questions as to the lawfulness of the provision of  
59 service, such questions being reserved to courts of  
60 competent jurisdiction. Except as provided in this section,  
61 nothing contained herein shall affect the rights, privileges  
62 or duties of existing corporations pursuant to this  
63 chapter. Nothing in this section shall be construed to make  
64 lawful any provision of service which was unlawful prior to  
65 July 11, 1991. Nothing in this section shall be construed  
66 to make unlawful the continued lawful provision of service  
67 to any structure which may have had a different supplier in  
68 the past, if such a change in supplier was lawful at the  
69 time it occurred. However, those customers who had  
70 cancelled service with their previous supplier or had  
71 requested cancellation by May 1, 1991, shall be eligible to

72 change suppliers as per previous procedures. No customer  
73 shall be allowed to change electric suppliers by  
74 disconnecting service between May 1, 1991, and July 11, 1991.

75 3. Notwithstanding the provisions of subsection 2 of  
76 this section or any other provision of chapters 386 and 394  
77 to the contrary, auxiliary power may be purchased on a  
78 wholesale basis, under the applicable federal tariffs of a  
79 regional transmission organization instead of under retail  
80 service tariffs filed with the public service commission by  
81 an electrical corporation, for use at an electric generation  
82 facility located in any county of the first classification  
83 with more than ninety-two thousand but fewer than one  
84 hundred one thousand inhabitants which commenced commercial  
85 operations prior to August 28, 2021, and which is operated  
86 as an independent power producer.

393.1620. 1. For the purposes of this section, the  
2 following terms shall mean:

3 (1) "Average and excess method", a method for  
4 allocation of production plant costs using factors that  
5 consider the classes' average demands and excess demands,  
6 determined by subtracting the average demands from the non-  
7 coincident peak demands, for the four months with the  
8 highest system peak loads. The production plant costs are  
9 allocated using the class average and excess demands  
10 proportionally based on the system load factor, where the  
11 system load factor determines the percentage of production  
12 plant costs allocated using the average demands, and the  
13 remainder of production plant costs are allocated using the  
14 excess demands;

15 (2) "Class cost of service study", a study designed to  
16 allocate a utility's costs to each customer class on the  
17 basis of which customer class causes the costs;

18           (3) "Commission", the Missouri public service  
19 commission;

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

23           (5) "Production plant costs", fixed costs reflected on  
24 the electrical corporation's accounting books for the  
25 applicable test period, as updated or trued-up, associated  
26 with the production or purchase of electricity.

27           2. In determining the allocation of an electrical  
28 corporation's total revenue requirement in a general rate  
29 case, the commission shall only consider class cost of  
30 service study results that allocate the electrical  
31 corporation's production plant costs from nuclear and fossil  
32 generating units using the average and excess method or one  
33 of the methods of assignment or allocation contained within  
34 the National Association of Regulatory Utility Commissioners  
35 1992 manual or subsequent manual.

36           3. This section shall expire on August 28, 2031.

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

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

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

15 financing entity, or any entity to which an assignee  
16 assigns, sells, or transfers, other than as security, its  
17 interest in or right to securitized utility tariff property;

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

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

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

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

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

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



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

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

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

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

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

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

78           (e) Any state and local taxes, franchise, gross  
79 receipts, and other taxes or similar charges, including

80 commission assessment fees, whether paid, payable, or  
81 accrued;

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

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

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

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

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

108 (13) "Qualified extraordinary costs", costs incurred  
109 prudently before, on, or after August 28, 2021, of an  
110 extraordinary nature which would cause extreme customer rate  
111 impacts if reflected in retail customer rates recovered  
112 through customary ratemaking, such as but not limited to

113 those related to purchases of fuel or power, inclusive of  
114 carrying charges, during anomalous weather events;

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

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

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

146 alternative electricity supplier following a fundamental  
147 change in regulation of public utilities in this state;

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

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

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

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

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

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

176 (a) A description of the electric generating facility  
177 or facilities that the electrical corporation has retired or  
178 abandoned, or proposes to retire or abandon, prior to the

179 date that all undepreciated investment relating thereto has  
180 been recovered through rates and the reasons for undertaking  
181 such early retirement or abandonment, or if the electrical  
182 corporation is subject to a separate commission order or  
183 proceeding relating to such retirement or abandonment as  
184 contemplated by subdivision (2) of this subsection, and a  
185 description of the order or other proceeding;

186 (b) The energy transition costs;

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

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

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

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

212 bonds and the imposition of securitized utility tariff  
213 charges are expected to provide quantifiable net present  
214 value benefits to customers;

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

223 (h) Direct testimony supporting the petition.

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

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

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

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

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

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

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

268 (g) Direct testimony supporting the petition.

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

274 a. The commission shall establish a procedural  
275 schedule that permits a commission decision no later than

276 two hundred fifteen days after the date the petition is  
277 filed;

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

569 (b) If an electrical corporation's petition for a  
570 financing order is denied or withdrawn, or for any reason  
571 securitized utility tariff bonds are not issued, any costs  
572 of retaining one or more financial advisors, one or more



573 consultants, and counsel on behalf of the commission shall  
574 be paid by the petitioning electrical corporation and shall  
575 be eligible for full recovery, including carrying costs, if  
576 approved by the commission in the electrical corporation's  
577 future rates.

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

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

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

601 3. (1) The commission may not, in exercising its  
602 powers and carrying out its duties regarding any matter  
603 within its authority, consider the securitized utility  
604 tariff bonds issued pursuant to a financing order to be the  
605 debt of the electrical corporation other than for federal

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

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

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

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

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

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

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

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

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

704 the securitized utility tariff charge and the ownership of  
705 the charge;

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

709 5. (1) (a) All securitized utility tariff property  
710 that is specified in a financing order constitutes an  
711 existing, present intangible property right or interest  
712 therein, notwithstanding that the imposition and collection  
713 of securitized utility tariff charges depends on the  
714 electrical corporation, to which the financing order is  
715 issued, performing its servicing functions relating to the  
716 collection of securitized utility tariff charges and on  
717 future electricity consumption. The property exists:

718 a. Regardless of whether or not the revenues or  
719 proceeds arising from the property have been billed, have  
720 accrued, or have been collected; and

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

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

731 (c) All or any portion of securitized utility tariff  
732 property specified in a financing order issued to an  
733 electrical corporation may be transferred, sold, conveyed,  
734 or assigned to a successor or assignee that is wholly owned,  
735 directly or indirectly, by the electrical corporation and  
736 created for the limited purpose of acquiring, owning, or

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

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

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

769 bankruptcy, or other insolvency of the electrical  
770 corporation or any other entity.

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

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

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

799 (b) A security interest in securitized utility tariff  
800 property is created, valid, and binding at the later of the  
801 time:

- 802           a. The financing order is issued;  
803           b. A security agreement is executed and delivered by  
804 the debtor granting such security interest;  
805           c. The debtor has rights in such securitized utility  
806 tariff property or the power to transfer rights in such  
807 securitized utility tariff property; or  
808           d. Value is received for the securitized utility  
809 tariff property.

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

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

829           (d) The priority of a security interest in securitized  
830 utility tariff property is not affected by the commingling  
831 of securitized utility tariff charges with other amounts.  
832 Any pledgee or secured party shall have a perfected security  
833 interest in the amount of all securitized utility tariff  
834 charges that are deposited in any cash or deposit account of



835 the qualifying electrical corporation in which securitized  
836 utility tariff charges have been commingled with other funds  
837 and any other security interest that may apply to those  
838 funds shall be terminated when they are transferred to a  
839 segregated account for the assignee or a financing party.

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

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

859 (3) (a) Any sale, assignment, or other transfer of  
860 securitized utility tariff property shall be an absolute  
861 transfer and true sale of, and not a pledge of or secured  
862 transaction relating to, the seller's right, title, and  
863 interest in, to, and under the securitized utility tariff  
864 property if the documents governing the transaction  
865 expressly state that the transaction is a sale or other  
866 absolute transfer other than for federal and state income  
867 tax purposes. For all purposes other than federal and state

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

878 a. The financing order creating the securitized  
879 utility tariff property has become effective;

880 b. The documents evidencing the transfer of  
881 securitized utility tariff property have been executed by  
882 the assignor and delivered to the assignee; and

883 c. Value is received for the securitized utility  
884 tariff property.

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

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

895 a. Commingling of securitized utility tariff charges  
896 with other amounts;

897 b. The retention by the seller of (i) a partial or  
898 residual interest, including an equity interest, in the  
899 securitized utility tariff property, whether direct or  
900 indirect, or whether subordinate or otherwise, or (ii) the

901 right to recover costs associated with taxes, franchise  
902 fees, or license fees imposed on the collection of  
903 securitized utility tariff charges;

904 c. Any recourse that the purchaser may have against  
905 the seller;

906 d. Any indemnification rights, obligations, or  
907 repurchase rights made or provided by the seller;

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

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

922 g. The treatment of the sale, conveyance, assignment,  
923 or other transfer for tax, financial reporting, or other  
924 purposes;

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

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

932 (c) Any right that an electrical corporation has in  
933 the securitized utility tariff property before its pledge,

934 sale, or transfer or any other right created under this  
935 section or created in the financing order and assignable  
936 under this section or assignable pursuant to a financing  
937 order is property in the form of a contract right or a chose  
938 in action. Transfer of an interest in securitized utility  
939 tariff property to an assignee is enforceable only upon the  
940 later of:

- 941 a. The issuance of a financing order;  
942 b. The assignor having rights in such securitized  
943 utility tariff property or the power to transfer rights in  
944 such securitized utility tariff property to an assignee;  
945 c. The execution and delivery by the assignor of  
946 transfer documents in connection with the issuance of  
947 securitized utility tariff bonds; and  
948 d. The receipt of value for the securitized utility  
949 tariff property.

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

957 (d) The priority of a transfer perfected under this  
958 section is not impaired by any later modification of the  
959 financing order or securitized utility tariff property or by  
960 the commingling of funds arising from securitized utility  
961 tariff property with other funds. Any other security  
962 interest that may apply to those funds, other than a  
963 security interest perfected under this section, is  
964 terminated when they are transferred to a segregated account  
965 for the assignee or a financing party. If securitized  
966 utility tariff property has been transferred to an assignee

967 or financing party, any proceeds of that property shall be  
968 held in trust for the assignee or financing party.

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

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

976 b. A perfected interest or right of an assignee has  
977 priority over a conflicting unperfected interest or right of  
978 an assignee;

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

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

999           7. The secretary of state shall maintain any financing  
1000 statement filed to perfect a sale or other transfer of  
1001 securitized utility tariff property and any security  
1002 interest in securitized utility tariff property under this  
1003 section in the same manner that the secretary of state  
1004 maintains financing statements filed under the code to  
1005 perfect a security interest in collateral owned by a  
1006 transmitting utility. Except as otherwise provided in this  
1007 section, all financing statements filed pursuant to this  
1008 section shall be governed by the provisions regarding  
1009 financing statements and the filing thereof under the code,  
1010 including part 5 of article 9 of the code. A security  
1011 interest in securitized utility tariff property may be  
1012 perfected only by the filing of a financing statement in  
1013 accordance with this section, and no other method of  
1014 perfection shall be effective. Notwithstanding any  
1015 provision of the code to the contrary, a financing statement  
1016 filed pursuant to this section is effective until a  
1017 termination statement is filed under the code, and no  
1018 continuation statement need be filed to maintain its  
1019 effectiveness. A financing statement filed pursuant to this  
1020 section may indicate that the debtor is a transmitting  
1021 utility, and without regard to whether the debtor is an  
1022 electrical corporation, an assignee or otherwise qualifies  
1023 as a transmitting utility under the code, but the failure to  
1024 make such indication shall not impair the duration and  
1025 effectiveness of the financing statement.

1026           8. The law governing the validity, enforceability,  
1027 attachment, perfection, priority, and exercise of remedies  
1028 with respect to the transfer of an interest or right or the  
1029 pledge or creation of a security interest in any securitized  
1030 utility tariff property shall be the laws of this state.

1031 9. Neither the state nor its political subdivisions  
1032 are liable on any securitized utility tariff bonds, and the  
1033 bonds are not a debt or a general obligation of the state or  
1034 any of its political subdivisions, agencies, or  
1035 instrumentalities, nor are they special obligations or  
1036 indebtedness of the state or any agency or political  
1037 subdivision. An issue of securitized utility tariff bonds  
1038 does not, directly, indirectly, or contingently, obligate  
1039 the state or any agency, political subdivision, or  
1040 instrumentality of the state to levy any tax or make any  
1041 appropriation for payment of the securitized utility tariff  
1042 bonds, other than in their capacity as consumers of  
1043 electricity. All securitized utility tariff bonds shall  
1044 contain on the face thereof a statement to the following  
1045 effect: "Neither the full faith and credit nor the taxing  
1046 power of the state of Missouri is pledged to the payment of  
1047 the principal of, or interest on, this bond."

1048 10. All of the following entities may legally invest  
1049 any sinking funds, moneys, or other funds in securitized  
1050 utility tariff bonds:

1051 (1) Subject to applicable statutory restrictions on  
1052 state or local investment authority, the state, units of  
1053 local government, political subdivisions, public bodies, and  
1054 public officers, except for members of the commission, the  
1055 commission's technical advisory and other staff, or  
1056 employees of the office of the public counsel;

1057 (2) Banks and bankers, savings and loan associations,  
1058 credit unions, trust companies, savings banks and  
1059 institutions, investment companies, insurance companies,  
1060 insurance associations, and other persons carrying on a  
1061 banking or insurance business;

1062 (3) Personal representatives, guardians, trustees, and  
1063 other fiduciaries;

1064 (4) All other persons authorized to invest in bonds or  
1065 other obligations of a similar nature.

1066 11. (1) The state and its agencies, including the  
1067 commission, pledge and agree with bondholders, the owners of  
1068 the securitized utility tariff property, and other financing  
1069 parties that the state and its agencies will not take any  
1070 action listed in this subdivision. This subdivision does  
1071 not preclude limitation or alteration if full compensation  
1072 is made by law for the full protection of the securitized  
1073 utility tariff charges collected pursuant to a financing  
1074 order and of the bondholders and any assignee or financing  
1075 party entering into a contract with the electrical  
1076 corporation. The prohibited actions are as follows:

1077 (a) Alter the provisions of this section, which  
1078 authorize the commission to create an irrevocable contract  
1079 right or chose in action by the issuance of a financing  
1080 order, to create securitized utility tariff property, and  
1081 make the securitized utility tariff charges imposed by a  
1082 financing order irrevocable, binding, or nonbypassable  
1083 charges for all existing and future retail customers of the  
1084 electrical corporation except its existing special contract  
1085 customers;

1086 (b) Take or permit any action that impairs or would  
1087 impair the value of securitized utility tariff property or  
1088 the security for the securitized utility tariff bonds or  
1089 revises the securitized utility tariff costs for which  
1090 recovery is authorized;

1091 (c) In any way impair the rights and remedies of the  
1092 bondholders, assignees, and other financing parties;

1093 (d) Except for changes made pursuant to the formula-  
1094 based true-up mechanism authorized under this section,  
1095 reduce, alter, or impair securitized utility tariff charges  
1096 that are to be imposed, billed, charged, collected, and



1097 remitted for the benefit of the bondholders, any assignee,  
1098 and any other financing parties until any and all principal,  
1099 interest, premium, financing costs and other fees, expenses,  
1100 or charges incurred, and any contracts to be performed, in  
1101 connection with the related securitized utility tariff bonds  
1102 have been paid and performed in full.

1103 (2) Any person or entity that issues securitized  
1104 utility tariff bonds may include the language specified in  
1105 this subsection in the securitized utility tariff bonds and  
1106 related documentation.

1107 12. An assignee or financing party is not an  
1108 electrical corporation or person providing electric service  
1109 by virtue of engaging in the transactions described in this  
1110 section.

1111 13. If there is a conflict between this section and  
1112 any other law regarding the attachment, assignment, or  
1113 perfection, or the effect of perfection, or priority of,  
1114 assignment or transfer of, or security interest in  
1115 securitized utility tariff property, this section shall  
1116 govern.

1117 14. If any provision of this section is held invalid  
1118 or is invalidated, superseded, replaced, repealed, or  
1119 expires for any reason, that occurrence does not affect the  
1120 validity of any action allowed under this section which is  
1121 taken by an electrical corporation, an assignee, a financing  
1122 party, a collection agent, or a party to an ancillary  
1123 agreement; and any such action remains in full force and  
1124 effect with respect to all securitized utility tariff bonds  
1125 issued or authorized in a financing order issued under this  
1126 section before the date that such provision is held invalid  
1127 or is invalidated, superseded, replaced, or repealed, or  
1128 expires for any reason.

393.1705. 1. For purposes of this section, the term  
2 "replacement resources" shall mean:

3 (1) Renewable generation facilities which produce  
4 electric energy from wind, solar thermal sources,  
5 photovoltaic cells and panels, dedicated crops grown for  
6 energy production, cellulosic agricultural residues, plant  
7 residues, methane from landfills, from agricultural  
8 operations, or from wastewater treatment, thermal  
9 depolymerization or pyrolysis for converting waste material  
10 to energy, clean and untreated wood such as pallets,  
11 hydropower, not including pumped storage, that does not  
12 require a new diversion or impoundment of water and that has  
13 a nameplate rating of ten megawatts or less, and fuel cells  
14 using hydrogen produced by one of the above-named  
15 replacement sources;

16 (2) Generation facilities which produce electric  
17 energy from natural gas that enable the electrical  
18 corporation to:

19 (a) Provide electric energy when renewable generation  
20 facilities and energy storage facilities are insufficient to  
21 meet the needs of the electrical corporation's system;

22 (b) Meet requirements of the electrical corporation's  
23 regional transmission organization; or

24 (c) Serve the objectives of both paragraphs (a) and  
25 (b) of this subdivision;

26 (3) Energy storage facilities that enable the  
27 electrical corporation to:

28 (a) Provide electric energy when renewable generation  
29 facilities are not generating electric energy in sufficient  
30 quantities to meet the needs of the electrical corporation's  
31 system;

32 (b) Meet requirements of the electrical corporation's  
33 regional transmission organization; or

34 (c) Serve the objectives of both paragraphs (a) and  
35 (b) of this subdivision; and

36 (4) Transmission facilities that enable the delivery  
37 of electric energy from renewable generation facilities or  
38 energy storage facilities, including but not limited to,  
39 interconnection, network upgrades, voltage and reactive  
40 power support, and transmission facilities needed to  
41 maintain reliability as a result of the retirement of  
42 generation facilities.

43 2. If requested by an electrical corporation in a  
44 petition filed concurrently with a petition filed under  
45 subsection 2 of section 393.1700 to recover securitized  
46 utility tariff costs and notwithstanding any other provision  
47 of chapter 386 or 393 to the contrary, including section  
48 393.170 which section shall not apply to the construction of  
49 replacement resources as defined in subsection 1 of this  
50 section:

51 (1) Except for electric generating facilities retired  
52 or abandoned prior to August 28, 2021, unless the commission  
53 issues an order rejecting a petition for a financing order  
54 filed under the provisions of section 393.1700 that was  
55 accompanied by a petition for approval of investment in  
56 replacement resources filed under the provisions of this  
57 section, the commission shall approve investment in  
58 replacement resources by the electrical corporation of an  
59 amount that is approximately equal to the undepreciated  
60 investment in the electric generating facilities covered by  
61 such petition to acquire or build an existing or new  
62 renewable energy resource to replace the retired or  
63 abandoned or to be retired or abandoned unit. There is no  
64 requirement that the replacement resource's capacity or  
65 energy production match the energy or capacity production of  
66 the retired or abandoned unit. Such approval shall

67 constitute an affirmative and binding determination by the  
68 commission, to be applied in all subsequent proceedings  
69 respecting the rates of the electrical corporation, that  
70 such investment is prudent and reasonable, that the  
71 replacement resource is necessary for the electrical  
72 corporation's provision of electric service to its  
73 customers, and that such investment shall be reflected in  
74 the revenue requirement used to set the electrical  
75 corporation's base rates, subject only to the commission's  
76 authority to determine that the electrical corporation did  
77 not manage or execute the project in a reasonable and  
78 prudent manner in some respect and its authority to disallow  
79 for ratemaking purposes only that portion of the investment  
80 that would not have been incurred had the unreasonable or  
81 imprudent management or execution of the project not  
82 occurred; and

83 (2) The commission shall create a deferral mechanism  
84 by which the electrical corporation shall defer, to a  
85 regulatory asset or regulatory liability as appropriate, the  
86 changes in the electrical corporation's revenue requirement  
87 used to last set its base rates as specified in this  
88 subdivision. Such changes shall be deferred during the  
89 period starting on the date of retirement or abandonment of  
90 the subject unit and ending when the base rates of the  
91 electrical corporation that is the subject of the petition  
92 are changed as the result of a general rate proceeding where  
93 the rate base cutoff date in that general rate proceeding  
94 occurs on or after the retirement or abandonment. For  
95 purposes of this subdivision, the changes in the electrical  
96 corporation's revenue requirement that shall be deferred  
97 shall only consist of:

98 (a) Changes in depreciation expense associated with  
99 the retired or abandoned unit;

100 (b) Changes in labor and benefit costs for employees  
101 or contractors no longer employed or retained by the  
102 electrical corporation who formerly worked at the retired or  
103 abandoned unit, net of severance and relocation costs of the  
104 electrical corporation paid to such employees or contractors;

105 (c) Changes in nonlabor, nonfuel operations, and  
106 maintenance costs caused by the retirement or abandonment of  
107 the unit;

108 (d) The return on the retired or abandoned unit once  
109 it is removed from plant-in-service on the electrical  
110 corporation's books at the electrical corporation's weighted  
111 average cost of capital, plus applicable federal, state, and  
112 local income or excise taxes, used to establish the  
113 electrical corporation's revenue requirement last used to  
114 set its base rates;

115 (e) Depreciation expense on the replacement resources  
116 starting with the date it is recorded to plant-in-service on  
117 the electrical corporation's books;

118 (f) Labor and benefits costs for employees or  
119 contractors who work at the replacement resources;

120 (g) Nonlabor, nonfuel operations, and maintenance  
121 costs of the replacement resources; and

122 (h) The return on the replacement resources once they  
123 are recorded to plant-in-service on the electrical  
124 corporation's books at the electrical corporation's weighted  
125 average cost of capital, plus applicable federal, state, and  
126 local income or excise taxes, used to establish the  
127 electrical corporation's revenue requirement last used to  
128 set its base rates.

129 The base against which changes under paragraphs (a), (b),  
130 and (c) of this subdivision shall be the values of each such  
131 item used to set the electrical corporation's base electric  
132 rates in its last general rate proceeding concluded prior to

133 the time the deferrals are made, provided, if the docketed  
134 record in such general rate proceeding does not specify one  
135 or more necessary revenue requirement parameters to  
136 establish the base for paragraphs (a) to (c) of this  
137 subdivision because of a "black box" settlement or  
138 otherwise, the commission shall, in the docket created by a  
139 petition filed under this section and based on the docketed  
140 record in such prior general rate proceeding, establish the  
141 missing parameters, which shall then be used to accomplish  
142 the deferrals. The base with respect to paragraphs (e),  
143 (f), and (g) of this subdivision shall be zero.  
144 Notwithstanding the foregoing provisions of this  
145 subdivision, deferrals created by this subdivision shall  
146 cease on the effective date of rates from a base rate case  
147 that shall be filed no later than one year after the subject  
148 electric generating unit was retired or abandoned. For  
149 purposes of this subdivision, the return in paragraphs (d)  
150 and (h) shall equal the weighted average cost of capital  
151 used to set the electrical corporation's base electrical  
152 rates in its last general rate proceeding concluded prior to  
153 the time the deferrals are made, provided, if the docketed  
154 record in such general rate proceeding does not specify one  
155 or more necessary revenue requirement parameters to  
156 establish the base for an item because of a "black box"  
157 settlement or otherwise, the commission shall, in the docket  
158 created by a petition filed under this section and based on  
159 the docketed record in such general rate proceeding,  
160 establish the missing parameters, which shall then be used  
161 to accomplish the deferrals.

162 (3) The commission shall also create a deferral  
163 mechanism by which the electrical corporation shall defer to  
164 a regulatory asset the changes in the electrical  
165 corporation's revenue requirement last used to set its base

166 rates as specified in this subdivision. Such changes shall  
167 be deferred during the period beginning on the date  
168 deferrals cease under subdivision (2) of this subsection and  
169 ending when the electrical corporation's base rates are next  
170 changed as a result of a general rate proceeding. For  
171 purposes of this subdivision, such changes in the electrical  
172 corporation's revenue requirement that shall be deferred  
173 shall only consist of:

174 (a) Return on the replacement resources once they go  
175 into service on the electrical corporation's books at the  
176 electrical corporation's weighted average cost of capital,  
177 plus applicable federal, state, and local income or excise  
178 taxes, used to establish the electrical corporation's  
179 revenue requirement last used to set its base rates;

180 (b) Depreciation expense on the replacement resources  
181 starting with the date the replacement resource is recorded  
182 to plant in-service on the electrical corporation's books;

183 (c) Increase in-labor and benefits costs for employees  
184 or contractors who work at the replacement resources; and

185 (d) Increase in nonlabor, nonfuel operations, and  
186 maintenance costs of the replacement resources.

187 Notwithstanding the foregoing provisions of this  
188 subdivision, deferrals to the regulatory asset created by  
189 this subdivision shall cease at the earlier of the date the  
190 electrical corporation's base rates are first changed after  
191 the replacement resource is recorded to plant in service on  
192 the electrical corporation's books where the rate base  
193 cutoff date in that general rate proceeding occurred on or  
194 after the retirement or abandonment, or the effective date  
195 of rates from a base rate case that shall be filed no later  
196 than one year after the unit was retired or abandoned. If  
197 there is more than one replacement resource for the retired  
198 or abandoned plant and if one or more such replacement

199 resource is placed in service prior to the rate base cutoff  
200 date in the general rate proceeding described in subdivision  
201 (2) of this subsection, the deferrals called for under this  
202 subdivision shall be reduced as needed to reflect that  
203 event. The base with respect to paragraphs (b) and (c) of  
204 this subdivision shall be zero. For purposes of this  
205 subdivision, the return in paragraph (a) shall equal the  
206 weighted average cost of capital used to set the electrical  
207 corporation's base electric rates in its last general rate  
208 proceeding concluded prior to the time the deferrals are  
209 made, provided, if the docketed record in such general rate  
210 proceeding does not specify one or more necessary revenue  
211 requirement parameters to establish the base for an item  
212 because of a "black box" settlement or otherwise, the  
213 commission shall, in the docket created by a petition filed  
214 under this section and based on the docketed record in such  
215 prior general rate proceeding, establish the missing  
216 parameters, which shall then be used to accomplish the  
217 deferrals.

218 (4) Notwithstanding the provisions of section 393.1400  
219 to the contrary, a replacement resource shall not constitute  
220 "qualifying electric plant" for purposes of section  
221 393.1400, nor shall it constitute a renewable energy  
222 resource under section 393.1030, during the period when a  
223 deferral is occurring under subdivision (2) or (3) of this  
224 subsection. In addition, and notwithstanding the provisions  
225 of section 393.1400 to the contrary, deferrals required by  
226 this section relating to the electrical corporation's  
227 undepreciated investment in the retired or abandoned unit  
228 shall not constitute a change in accumulated depreciation  
229 when determining the return deferred on qualifying electric  
230 plant under section 393.1400.



231           (5) Parts of regulatory asset or liability balances  
232 created under this section that are not yet being recovered  
233 or returned through rates shall include carrying costs at  
234 the electrical corporation's weighted average cost of  
235 capital last used to set its base electric service rates or,  
236 if such cost of capital was not specified for the revenue  
237 requirement last used to set such electric service rates at  
238 the weighted average cost of capital determined by the  
239 commission under subdivision (3) of this subsection, in each  
240 case plus applicable federal, state, and local income or  
241 excise taxes. All regulatory asset or liability balances  
242 from deferrals under this subsection shall be recovered in  
243 base rates over a period equal to the remaining useful life  
244 of the replacement resource.

245           (6) In each general rate proceeding concluded after a  
246 deferral commences under subdivision (2) or (3) of this  
247 subsection, the regulatory asset or liability balances  
248 arising from such deferrals, as of the rate base cutoff  
249 date, shall be included in the electrical corporation's rate  
250 base without any offset, reduction, or adjustment based upon  
251 consideration of any other factor, other than to reflect any  
252 prudence disallowances ordered by the commission, with the  
253 regulatory asset balances arising from such deferrals that  
254 occur after the rate base cutoff date to be included in rate  
255 base in the next general rate proceeding. The provisions of  
256 this section shall not be construed to affect existing law  
257 respecting burdens of production and persuasion in general  
258 rate proceedings.

259           3. Proceedings on a petition submitted pursuant to  
260 this section begin with the filing of a petition by an  
261 electrical corporation under this section that is filed  
262 concurrently with a petition submitted under section  
263 393.1700, and shall be disposed of in accordance with the

264 requirements of chapters 386 and 393 and the rules of the  
265 commission, except as follows:

266 (1) The commission shall establish a procedural  
267 schedule that permits a commission decision no later than  
268 two hundred fifteen days after the date the petition is  
269 filed. Such procedural schedule adopted by the commission  
270 in connection with a petition filed under this section shall  
271 contain the same milestones and requirements as the  
272 procedural schedule adopted in a proceeding seeking approval  
273 of a financing order under section 393.1700 and shall run  
274 concurrently therewith;

275 (2) No later than two hundred fifteen days after the  
276 date the petition is filed, the commission shall issue an  
277 order approving the petition or, if it also rejects the  
278 accompanying petition for a financing order filed under  
279 section 393.1700, rejecting the petition. Judicial review  
280 may be had only in accordance with sections 386.500 and  
281 386.510.

393.1715. 1. An electrical corporation may petition  
2 the commission for a determination of the ratemaking  
3 principles and treatment, as proposed by the electrical  
4 corporation, that will apply to the reflection in base rates  
5 of the electrical corporation's capital and noncapital costs  
6 associated with the proposed retirement of one or more of  
7 the electrical corporation's generating facilities. Without  
8 limiting the foregoing, such principles and treatment may  
9 also establish the retirement date and useful life  
10 parameters used to set depreciation rates for such  
11 facilities. Except as provided for in subsection 4 of this  
12 section, the ratemaking principles and treatment approved by  
13 the commission under this section for such facilities shall  
14 apply to the determination of the revenue requirement in  
15 each of the electrical corporation's post-determination

16 general rate proceedings until such time as such facility is  
17 fully depreciated on the electrical corporation's books.

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

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

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

35 (a) Terrorist activity or an act of God;

36 (b) A significant change in federal or state tax laws;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

76 (3) If a party has concerns regarding the proposed  
77 changes, that party shall file a notice of its concerns  
78 within thirty days of the electrical corporation's filing.  
79 If the parties agree on a resolution of the concerns, the  
80 agreement shall be submitted to the commission for

81 approval. If the parties do not reach agreement on changes  
82 to the ratemaking principles and treatment within ninety  
83 days of the date the electrical corporation filed its  
84 notice, whether the previously approved ratemaking and  
85 treatment will be changed shall be determined by the  
86 commission. If a party to the docket in which the approved  
87 ratemaking principles and treatment were approved believes  
88 that one or more major factor or circumstance has changed in  
89 a manner that warrants a change in the approved ratemaking  
90 principles and treatment and if the electrical corporation  
91 does not agree the principles and treatment should be  
92 changed, such party shall file a notice in the docket in  
93 which the approved ratemaking principles and treatment were  
94 established within forty-five days of any such  
95 determination. In its notification, such party shall:  
96 (a) Explain and specify the changes it contends are  
97 appropriate to the ratemaking principles and treatment and  
98 the reasons for the proposed changes;  
99 (b) Provide a description of the alternatives that it  
100 evaluated and the process that it went through in developing  
101 its proposed changes; and  
102 (c) Provide detailed workpapers that support the  
103 evaluation and the process whereby proposed changes were  
104 developed.  
105 (4) If a party, including the electrical corporation,  
106 has concerns regarding the proposed changes, that party  
107 shall file a notice of its concerns within thirty days of  
108 the other party's filing. If the parties do not reach  
109 agreement on changes to the ratemaking principles and  
110 treatment within ninety days of the date the notice was  
111 filed, whether the previously approved ratemaking and  
112 treatment will be changed shall be determined by the  
113 commission.

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

125           6. If determined by the commission to be just,  
126 reasonable, and necessary for the provision of safe and  
127 adequate service, the electrical corporation may be  
128 permitted to retain coal-fired generating assets in rate  
129 base and recover costs associated with operating the coal-  
130 fired assets that remain in service to provide greater  
131 certainty that generating capacity will be available to  
132 provide essential service to customers, including during  
133 extreme weather events, and the commission shall not  
134 disallow any portion of such cost recovery on the basis that  
135 such coal-fired generating assets operate at a low capacity  
136 factor, or are off-line and providing capacity only, during  
137 normal operating conditions.

138           7. The commission may promulgate rules necessary to  
139 implement the provisions of sections 393.1700 to 393.1715.  
140 Any rule or portion of a rule, as that term is defined in  
141 section 536.010, that is created under the authority  
142 delegated in this section shall become effective only if it  
143 complies with and is subject to all of the provisions of  
144 chapter 536 and, if applicable, section 536.028. This  
145 section and chapter 536 are nonseverable and if any of the  
146 powers vested with the general assembly pursuant to chapter

147 536 to review, to delay the effective date, or to disapprove  
148 and annul a rule are subsequently held unconstitutional,  
149 then the grant of rulemaking authority and any rule proposed  
150 or adopted after August 28, 2021, shall be invalid and void.

394.120. 1. No person shall become a member of a  
2 cooperative unless such person shall agree to use electric  
3 energy furnished by the cooperative when such electric  
4 energy shall be available through its facilities. The  
5 bylaws of a cooperative may provide that any person,  
6 including an incorporator, shall cease to be a member  
7 thereof if he or she shall fail or refuse to use electric  
8 energy made available by the cooperative or if electric  
9 energy shall not be made available to such person by the  
10 cooperative within a specified time after such person shall  
11 have become a member thereof. Membership in the cooperative  
12 shall not be transferable, except as provided in the  
13 bylaws. The bylaws may prescribe additional qualifications  
14 and limitations in respect of membership.

15 2. An annual meeting of the members shall be held at  
16 such time as shall be provided in the bylaws.

17 3. Special meetings of the members may be called by  
18 the board of directors, by any three directors, by not less  
19 than ten percent of the members, or by the president.

20 4. Meetings of members shall be held at such place as  
21 may be provided in the bylaws. In the absence of any such  
22 provisions, all meetings shall be held in the city or town  
23 in which the principal office of the cooperative is located.

24 5. Except as herein otherwise provided, written or  
25 printed notice stating the time and place of each meeting of  
26 members and, in the case of a special meeting, the purpose  
27 or purposes for which the meeting is called, shall be given  
28 to each member, either personally or by mail, not less than

29 ten nor more than twenty-five days before the date of the  
30 meeting.

31 6. Two percent of the first two thousand members and  
32 one percent of the remaining members, present in person, or  
33 if the bylaws so provide, participating electronically or by  
34 mail, shall constitute a quorum for the transaction of  
35 business at all meetings of the members, unless the bylaws  
36 prescribe the presence of a greater percentage of the  
37 members for a quorum. If less than a quorum is present at  
38 any meeting, a majority of those present in person may  
39 adjourn the meeting from time to time without further notice.

40 7. Each member shall be entitled to one vote on each  
41 matter submitted to a vote at a meeting. Voting shall be in  
42 person, but, if the bylaws so provide, may also be by proxy,  
43 by electronic means, by mail, or any combination thereof.  
44 If the bylaws provide for voting by proxy, by electronic  
45 means, or by mail, they shall also prescribe the conditions  
46 under which proxy, electronic, or mail voting shall be  
47 exercised. In any event, no person shall vote as proxy for  
48 more than two members at any meeting of the members.

49 8. Notwithstanding the provisions of subsections 2 and  
50 7 of this section, the board of directors shall have the  
51 power to set the time and place of the annual meeting and  
52 also to provide for voting by proxy, electronic means, by  
53 mail, or any combination thereof, and to prescribe the  
54 conditions under which such voting shall be exercised. The  
55 meeting requirement provided in this section may be  
56 satisfied through virtual means. The provisions of this  
57 subsection shall expire on August 28, 2022.

2 400.9-109. (a) Except as otherwise provided in  
subsections (c) and (d), this article applies to:



3           (1) A transaction, regardless of its form, that  
4 creates a security interest in personal property or fixtures  
5 by contract;

6           (2) An agricultural lien;

7           (3) A sale of accounts, chattel paper, payment  
8 intangibles, or promissory notes;

9           (4) A consignment;

10          (5) A security interest arising under section 400.2-  
11 401, 400.2-505, 400.2-711(3) or 400.2A-508(5), as provided  
12 in section 400.9-110; and

13          (6) A security interest arising under section 400.4-  
14 210 or 400.5-118.

15          (b) The application of this article to a security  
16 interest in a secured obligation is not affected by the fact  
17 that the obligation is itself secured by a transaction or  
18 interest to which this article does not apply.

19          (c) This article does not apply to the extent that:

20           (1) A statute, regulation, or treaty of the United  
21 States preempts this article;

22           (2) Another statute of this state expressly governs  
23 the creation, perfection, priority, or enforcement of a  
24 security interest created by this state or a governmental  
25 unit of this state;

26           (3) A statute of another state, a foreign country, or  
27 a governmental unit of another state or a foreign country,  
28 other than a statute generally applicable to security  
29 interests, expressly governs creation, perfection, priority,  
30 or enforcement of a security interest created by the state,  
31 country, or governmental unit; or

32           (4) The rights of a transferee beneficiary or  
33 nominated person under a letter of credit are independent  
34 and superior under section 400.5-114.

35          (d) This article does not apply to:

- 36           (1) A landlord's lien, other than an agricultural lien;
- 37           (2) A lien, other than an agricultural lien, given by  
38 statute or other rule of law for services or materials, but  
39 section 400.9-333 applies with respect to priority of the  
40 lien;
- 41           (3) An assignment of a claim for wages, salary, or  
42 other compensation of an employee;
- 43           (4) A sale of accounts, chattel paper, payment  
44 intangibles, or promissory notes as part of a sale of the  
45 business out of which they arose;
- 46           (5) An assignment of accounts, chattel paper, payment  
47 intangibles, or promissory notes which is for the purpose of  
48 collection only;
- 49           (6) An assignment of a right to payment under a  
50 contract to an assignee that is also obligated to perform  
51 under the contract;
- 52           (7) An assignment of a single account, payment  
53 intangible, or promissory note to an assignee in full or  
54 partial satisfaction of a preexisting indebtedness;
- 55           (8) A transfer of an interest in or an assignment of a  
56 claim under a policy of insurance, other than an assignment  
57 by or to a health-care provider of a health-care-insurance  
58 receivable and any subsequent assignment of the right to  
59 payment, but sections 400.9-315 and 400.9-322 apply with  
60 respect to proceeds and priorities in proceeds;
- 61           (9) An assignment of a right represented by a  
62 judgment, other than a judgment taken on a right to payment  
63 that was collateral;
- 64           (10) A right of recoupment or set-off, but:
- 65           (A) Section 400.9-340 applies with respect to the  
66 effectiveness of rights of recoupment or set-off against  
67 deposit accounts; and

68 (B) Section 400.9-404 applies with respect to defenses  
69 or claims of an account debtor;

70 (11) The creation or transfer of an interest in or  
71 lien on real property, including a lease or rents  
72 thereunder, except to the extent that provision is made for:

73 (A) Liens on real property in sections 400.9-203 and  
74 400.9-308;

75 (B) Fixtures in section 400.9-334;

76 (C) Fixture filings in sections 400.9-501, 400.9-502,  
77 400.9-512, 400.9-516 and 400.9-519; and

78 (D) Security agreements covering personal and real  
79 property in section 400.9-604;

80 (12) An assignment of a claim arising in tort, other  
81 than a commercial tort claim, but sections 400.9-315 and  
82 400.9-322 apply with respect to proceeds and priorities in  
83 proceeds; [or]

84 (13) An assignment of a deposit account in a consumer  
85 transaction, but sections 400.9-315 and 400.9-322 apply with  
86 respect to proceeds and priorities in proceeds; [or]

87 (14) An assignment of a claim or right to receive  
88 compensation for injuries or sickness as described in 26  
89 U.S.C. Section 104(a)(1) or (2), as amended from time to  
90 time; [or]

91 (15) An assignment of a claim or right to receive  
92 benefits under a special needs trust as described in 42  
93 U.S.C. Section 1396p(d)(4), as amended from time to time;  
94 [or]

95 (16) A transfer by a government or governmental  
96 subdivision or agency; or

97 (17) The creation, attachment, perfection, priority,  
98 or enforcement of any security interest in, or the sale,  
99 assignment, or other transfer of, any securitized utility  
100 tariff property as defined in section 393.1700, or any

101 interest therein or any portion thereof, in each case except  
102 as otherwise expressly provided in section 393.1700.