

CONFERENCE COMMITTEE SUBSTITUTE

FOR

SENATE SUBSTITUTE

FOR

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FOR

HOUSE COMMITTEE SUBSTITUTE

FOR

HOUSE BILL NO. 734

AN ACT

To repeal sections 91.025, 153.030, 153.034, 204.569, 386.370, 386.800, 393.106, 393.355, 393.1073, 394.020, 394.120, 394.315, and 400.9-109, RSMo, and to enact in lieu thereof nineteen new sections relating to utilities.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI, AS FOLLOWS:

Section A. Sections 91.025, 153.030, 153.034, 204.569, 386.370, 386.800, 393.106, 393.355, 393.1073, 394.020, 394.120, 394.315, and 400.9-109, RSMo, are repealed and nineteen new sections enacted in lieu thereof, to be known as sections 67.309, 91.025, 137.123, 153.030, 153.034, 204.569, 386.370, 386.800, 386.895, 393.106, 393.355, 393.1620, 393.1700, 393.1705, 393.1715, 394.020, 394.120, 394.315, and 400.9-109, to read as follows:

1           67.309. 1. No political subdivision of this state,  
2 including any referenced in section 386.020, shall adopt an  
3 ordinance, resolution, regulation, code, or policy that  
4 prohibits, or has the effect of prohibiting, the connection or  
5 reconnection of a utility service based upon the type or source  
6 of energy to be delivered to an individual customer. Nothing in  
7 this section shall limit the ability of a political subdivision  
8 to choose utility services for properties owned by such political  
9 subdivision.

10           2. For purposes of this section, utility services shall  
11 include natural gas, propane gas, electricity, and any other form  
12 of energy provided to an end user customer.

13           91.025. 1. As used in this section, the following terms  
14 mean:

15           (1) "Municipally owned or operated electric power system",  
16 a system for the distribution of electrical power and energy to  
17 the inhabitants of a municipality which is owned and operated by  
18 the municipality itself, whether operated under authority  
19 pursuant to this chapter or under a charter form of government;

20           (2) "Permanent service", electrical service provided  
21 through facilities which have been permanently installed on a  
22 structure and which are designed to provide electric service for  
23 the structure's anticipated needs for the indefinite future, as  
24 contrasted with facilities installed temporarily to provide  
25 electrical service during construction. Service provided  
26 temporarily shall be at the risk of the electrical supplier and

1 shall not be determinative of the rights of the provider or  
2 recipient of permanent service;

3 (3) "Structure" or "structures", an agricultural,  
4 residential, commercial, industrial or other building or a  
5 mechanical installation, machinery or apparatus at which retail  
6 electric energy is being delivered through a metering device  
7 which is located on or adjacent to the structure and connected to  
8 the lines of an electrical corporation, rural electric  
9 cooperative, municipally owned or operated electric power system,  
10 or joint municipal utility commission. Such terms shall include  
11 any contiguous or adjacent additions to or expansions of a  
12 particular structure. Nothing in this section shall be construed  
13 to confer any right on an electric supplier to serve new  
14 structures on a particular tract of land because it was serving  
15 an existing structure on that tract.

16 2. Once a municipally owned or operated electrical system,  
17 or its predecessor in interest, lawfully commences supplying  
18 retail electric energy to a structure through permanent service  
19 facilities, it shall have the right to continue serving such  
20 structure, and other suppliers of electrical energy shall not  
21 have the right to provide service to the structure except as  
22 might be otherwise permitted in the context of municipal  
23 annexation, pursuant to section 386.800 or pursuant to a  
24 territorial agreement approved under section 394.312. The public  
25 service commission, upon application made by a customer, may  
26 order a change of suppliers on the basis that it is in the public  
27 interest for a reason other than a rate differential, and the

1 commission is hereby given jurisdiction over municipally owned or  
2 operated electric systems to accomplish the purpose of this  
3 section. The commission's jurisdiction under this section is  
4 limited to public interest determinations and excludes questions  
5 as to the lawfulness of the provision of service, such questions  
6 being reserved to courts of competent jurisdiction. Except as  
7 provided in this section, nothing in this section shall be  
8 construed as otherwise conferring upon the commission  
9 jurisdiction over the service, rates, financing, accounting or  
10 management of any such municipally owned or operated electrical  
11 system, and nothing in this section, section 393.106, and section  
12 394.315 shall affect the rights, privileges or duties of any  
13 municipality to form or operate municipally owned or operated  
14 electrical systems. Nothing in this section shall be construed  
15 to make lawful any provision of service which was unlawful prior  
16 to July 11, 1991. Nothing in this section shall be construed to  
17 make unlawful the continued lawful provision of service to any  
18 structure which may have had a different supplier in the past, if  
19 such a change in supplier was lawful at the time it occurred.

20 3. Notwithstanding the provisions of this section, section  
21 393.106, section 394.080, and section 394.315 to the contrary, in  
22 the event that a retail electric supplier is providing service to  
23 a structure located within a city, town, or village that has  
24 ceased to be a rural area, and such structure is demolished and  
25 replaced by a new structure, such retail electric supplier may  
26 provide permanent service to the new structure upon the request  
27 of the owner of the new structure.

1           137.123. 1. Beginning January 1, 2022, for purposes of  
2 assessing all real property, excluding land, or tangible personal  
3 property associated with a project that uses wind energy directly to  
4 generate electricity, thirty-seven and one-half percent of the  
5 original costs shall be the true value in money of such property.  
6 Such value shall begin the year immediately following the year of  
7 construction of the property. The original costs shall reflect  
8 either:

9           (1) The actual and documented original property cost to the  
10 taxpayer, as shall be provided by the taxpayer to the assessor; or

11           (2) In the absence of actual and documented original property  
12 cost to the taxpayer, the estimated cost of the property by the  
13 assessor, using an authoritative cost guide.

14           2. Nothing in this section shall be construed to prohibit a  
15 project from engaging in enhanced enterprise zone agreements under  
16 sections 135.950 to 135.973 or similar tax abatement agreements with  
17 state or local officials or to affect any existing enhanced enterprise  
18 zone agreements.

19           153.030. 1. All bridges over streams dividing this state  
20 from any other state owned, used, leased or otherwise controlled  
21 by any person, corporation, railroad company or joint stock  
22 company, and all bridges across or over navigable streams within  
23 this state, where the charge is made for crossing the same, which  
24 are now constructed, which are in the course of construction, or  
25 which shall hereafter be constructed, and all property, real and  
26 tangible personal, owned, used, leased or otherwise controlled by  
27 telegraph, telephone, electric power and light companies,  
28 electric transmission lines, pipeline companies and express

1 companies shall be subject to taxation for state, county,  
2 municipal and other local purposes to the same extent as the  
3 property of private persons.

4 2. And taxes levied thereon shall be levied and collected  
5 in the manner as is now or may hereafter be provided by law for  
6 the taxation of railroad property in this state, and county  
7 commissions, county boards of equalization and the state tax  
8 commission are hereby required to perform the same duties and are  
9 given the same powers, including punitive powers, in assessing,  
10 equalizing and adjusting the taxes on the property set forth in  
11 this section as the county commissions and boards of equalization  
12 and state tax commission have or may hereafter be empowered with,  
13 in assessing, equalizing, and adjusting the taxes on railroad  
14 property; and an authorized officer of any such bridge,  
15 telegraph, telephone, electric power and light companies,  
16 electric transmission lines, pipeline companies, or express  
17 company or the owner of any such toll bridge, is hereby required  
18 to render reports of the property of such bridge, telegraph,  
19 telephone, electric power and light companies, electric  
20 transmission lines, pipeline companies, or express companies in  
21 like manner as the authorized officer of the railroad company is  
22 now or may hereafter be required to render for the taxation of  
23 railroad property.

24 3. On or before the fifteenth day of April in the year 1946  
25 and each year thereafter an authorized officer of each such  
26 company shall furnish the state tax commission and county clerks  
27 a report, duly subscribed and sworn to by such authorized

1 officer, which is like in nature and purpose to the reports  
2 required of railroads under chapter 151 showing the full amount  
3 of all real and tangible personal property owned, used, leased or  
4 otherwise controlled by each such company on January first of the  
5 year in which the report is due.

6 4. If any telephone company assessed pursuant to chapter  
7 153 has a microwave relay station or stations in a county in  
8 which it has no wire mileage but has wire mileage in another  
9 county, then, for purposes of apportioning the assessed value of  
10 the distributable property of such companies, the straight line  
11 distance between such microwave relay stations shall constitute  
12 miles of wire. In the event that any public utility company  
13 assessed pursuant to this chapter has no distributable property  
14 which physically traverses the counties in which it operates,  
15 then the assessed value of the distributable property of such  
16 company shall be apportioned to the physical location of the  
17 distributable property.

18 5. (1) Notwithstanding any provision of law to the  
19 contrary, beginning January 1, 2019, a telephone company shall  
20 make a one-time election within the tax year to be assessed:

21 (a) Using the methodology for property tax purposes as  
22 provided under this section; or

23 (b) Using the methodology for property tax purposes as  
24 provided under this section for property consisting of land and  
25 buildings and be assessed for all other property exclusively  
26 using the methodology utilized under section 137.122.

1 If a telephone company begins operations, including a merger of  
2 multiple telephone companies, after August 28, 2018, it shall  
3 make its one-time election to be assessed using the methodology  
4 for property tax purposes as described under paragraph (b) of  
5 subdivision (1) of this subsection within the year in which the  
6 telephone company begins its operations. A telephone company  
7 that fails to make a timely election shall be deemed to have  
8 elected to be assessed using the methodology for property tax  
9 purposes as provided under subsections 1 to 4 of this section.

10 (2) The provisions of this subsection shall not be  
11 construed to change the original assessment jurisdiction of the  
12 state tax commission.

13 (3) Nothing in subdivision (1) of this subsection shall be  
14 construed as applying to any other utility.

15 (4) (a) The provisions of this subdivision shall ensure  
16 that school districts may avoid any fiscal impact as a result of  
17 a telephone company being assessed under the provisions of  
18 paragraph (b) of subdivision (1) of this subsection. If a school  
19 district's current operating levy is below the greater of its  
20 most recent voter-approved tax rate or the most recent voter-  
21 approved tax rate as adjusted under subdivision (2) of subsection  
22 5 of section 137.073, it shall comply with section 137.073.

23 (b) Beginning January 1, 2019, any school district  
24 currently operating at a tax rate equal to the greater of the  
25 most recent voter-approved tax rate or the most recent voter-  
26 approved tax rate as adjusted under subdivision (2) of subsection  
27 5 of section 137.073 that receives less tax revenue from a



1 specific telephone company under this subsection, on or before  
2 January thirty-first of the year following the tax year in which  
3 the school district received less revenue from a specific  
4 telephone company, may by resolution of the school board impose a  
5 fee, as determined under this subsection, in order to obtain such  
6 revenue. The resolution shall include all facts that support the  
7 imposition of the fee. If the school district receives voter  
8 approval to raise its tax rate, the district shall no longer  
9 impose the fee authorized in this paragraph.

10 (c) Any fee imposed under paragraph (b) of this subdivision  
11 shall be determined by taking the difference between the tax  
12 revenue the telephone company paid in the tax year in question  
13 and the tax revenue the telephone company would have paid in such  
14 year had it not made an election under subdivision (1) of this  
15 subsection, which shall be calculated by taking the telephone  
16 company valuations in the tax year in question, as determined by  
17 the state tax commission under paragraph (d) of this subdivision,  
18 and applying such valuations to the apportionment process in  
19 subsection 2 of section 151.150. The school district shall issue  
20 a billing, as provided in this subdivision, to any such telephone  
21 company. A telephone company shall have forty-five days after  
22 receipt of a billing to remit its payment of its portion of the  
23 fees to the school district. Notwithstanding any other provision  
24 of law, the issuance or receipt of such fee shall not be used:

25 a. In determining the amount of state aid that a school  
26 district receives under section 163.031;

1           b. In determining the amount that may be collected under a  
2 property tax levy by such district; or

3           c. For any other purpose.  
4

5 For the purposes of accounting, a telephone company that issues a  
6 payment to a school district under this subsection shall treat  
7 such payment as a tax.

8           (d) When establishing the valuation of a telephone company  
9 assessed under paragraph (b) of subdivision (1) of this  
10 subsection, the state tax commission shall also determine the  
11 difference between the assessed value of a telephone company if:

12           a. Assessed under paragraph (b) of subdivision (1) of this  
13 subsection; and

14           b. Assessed exclusively under subsections 1 to 4 of this  
15 section.  
16

17 The state tax commission shall then apportion such amount to each  
18 county and provide such information to any school district making  
19 a request for such information.

20           (e) This subsection shall expire when no school district is  
21 eligible for a fee.

22           6. (1) If any public utility company assessed pursuant to  
23 this chapter has ownership of any real or personal property  
24 associated with a project which uses wind energy directly to  
25 generate electricity, such wind energy project property shall be  
26 valued and taxed by any local authorities having jurisdiction

1 under the provisions of chapter 137 and other relevant provisions  
2 of the law.

3 (2) Notwithstanding any provision of law to the contrary,  
4 beginning January 1, 2020, for any public utility company  
5 assessed pursuant to this chapter which has a wind energy  
6 project, such wind energy project shall be assessed using the  
7 methodology for real and personal property as provided in this  
8 subsection:

9 (a) Any wind energy property of such company shall be  
10 assessed upon the county assessor's local tax rolls; and

11 ~~(b) [Any property consisting of land and buildings related~~  
12 ~~to the wind energy project shall be assessed under chapter 137,~~  
13 ~~and~~

14 ~~——(c)] All other [business] real property, excluding land, or~~  
15 ~~personal property related to the wind energy project shall be~~  
16 ~~assessed using the methodology provided under section [137.122]~~  
17 ~~137.123.~~

18 7. (1) If any public utility company assessed pursuant to  
19 this chapter has ownership of any real or personal property  
20 associated with a generation project which was originally  
21 constructed utilizing financing authorized pursuant to chapter  
22 100 for construction, upon the transfer of ownership of such  
23 property to the public utility company such property shall be  
24 valued and taxed by any local authorities having jurisdiction  
25 under the provisions of chapter 137 and other relevant provisions  
26 of law.

1           (2) Notwithstanding any provision of law to the contrary,  
2 beginning January 1, 2022, for any public utility company  
3 assessed pursuant to this chapter which has ownership of any real  
4 or personal property associated with a generation project which  
5 was originally constructed utilizing financing authorized  
6 pursuant to chapter 100 for construction, upon the transfer of  
7 ownership of such property to the public utility company such  
8 property shall be assessed as follows:

9           (a) Any property associated with a generation project which  
10 was originally constructed utilizing financing authorized  
11 pursuant to chapter 100 for construction shall be assessed upon  
12 the county assessor's local tax rolls. The assessor shall rely  
13 on the public utility company for cost information of the  
14 generation portion of the property as found in the public utility  
15 company's Federal Energy Regulatory Commission Financial Report  
16 Form Number One at the time of transfer of ownership, and  
17 depreciate the costs provided in a manner similar to other  
18 commercial and industrial property.

19           (b) Any property consisting of land and buildings related  
20 to the generation property associated with a generation project  
21 which was originally constructed utilizing financing pursuant to  
22 chapter 100 for construction shall be assessed under chapter 137;  
23 and

24           (c) All other business or personal property related to a  
25 generation project which was originally constructed utilizing  
26 financing pursuant to chapter 100 for construction shall be  
27 assessed using the methodology provided under section 137.122.

1           153.034. 1. The term "distributable property" of an  
2 electric company shall include all the real or tangible personal  
3 property which is used directly in the generation and  
4 distribution of electric power, but not property used as a  
5 collateral facility nor property held for purposes other than  
6 generation and distribution of electricity. Such distributable  
7 property includes, but is not limited to:

8           (1) Boiler plant equipment, turbogenerator units and  
9 generators;

10          (2) Station equipment;

11          (3) Towers, fixtures, poles, conductors, conduit  
12 transformers, services and meters;

13          (4) Substation equipment and fences;

14          (5) Rights-of-way;

15          (6) Reactor, reactor plant equipment, and cooling towers;

16          (7) Communication equipment used for control of generation  
17 and distribution of power;

18          (8) Land associated with such distributable property.

19           2. The term "local property" of an electric company shall  
20 include all real and tangible personal property owned, used,  
21 leased or otherwise controlled by the electric company not used  
22 directly in the generation and distribution of power and not  
23 defined in subsection 1 of this section as distributable  
24 property. Such local property includes, but is not limited to:

25          (1) Motor vehicles;

26          (2) Construction work in progress;

27          (3) Materials and supplies;

- 1           (4) Office furniture, office equipment, and office  
2 fixtures;
- 3           (5) Coal piles and nuclear fuel;
- 4           (6) Land held for future use;
- 5           (7) Workshops, warehouses, office buildings and generating  
6 plant structures;
- 7           (8) Communication equipment not used for control of  
8 generation and distribution of power;
- 9           (9) Roads, railroads, and bridges;
- 10          (10) Reservoirs, dams, and waterways;
- 11          (11) Land associated with other locally assessed property  
12 and all generating plant land.

13           3. (1) Any real or tangible personal property associated  
14 with a project which uses wind energy directly to generate  
15 electricity shall be valued and taxed by local authorities having  
16 jurisdiction under the provisions of chapter 137 and any other  
17 relevant provisions of law. The method of taxation prescribed in  
18 subsection 2 of section 153.030 and subsection 1 of this section  
19 shall not apply to such property.

20           (2) The real or tangible personal property referenced in  
21 subdivision (1) of this subsection shall include all equipment  
22 whose sole purpose is to support the integration of a wind  
23 generation asset into an existing system. Examples of such  
24 property may include, but are not limited to, wind chargers,  
25 windmills, wind turbines, wind towers, and associated electrical  
26 equipment such as inverters, pad mount transformers, power lines,

1 storage equipment directly associated with wind generation  
2 assets, and substations.

3 4. For any real or tangible personal property associated  
4 with a generation project which was originally constructed  
5 utilizing financing authorized under chapter 100 for  
6 construction, upon the transfer of ownership of such property to  
7 a public utility, such property shall be valued and taxed by  
8 local authorities having jurisdiction under the provisions of  
9 chapter 137 and any other relevant provisions of law. The method  
10 of taxation prescribed in subsection 2 of section 153.030 and  
11 subsection 1 of this section shall not apply to such property.

12 204.569. When an unincorporated sewer subdistrict of a  
13 common sewer district has been formed pursuant to sections  
14 204.565 to 204.573, the board of trustees of the common sewer  
15 district shall have the same powers with regard to the  
16 subdistrict as for the common sewer district as a whole, plus the  
17 following additional powers:

18 (1) To enter into agreements to accept, take title to, or  
19 otherwise acquire, and to operate such sewers, sewer systems,  
20 treatment and disposal facilities, and other property, both real  
21 and personal, of the political subdivisions included in the  
22 subdistrict as the board determines to be in the interest of the  
23 common sewer district to acquire or operate, according to such  
24 terms and conditions as the board finds reasonable, provided that  
25 such authority shall be in addition to the powers of the board of  
26 trustees pursuant to section 204.340;

1           (2) To provide for the construction, extension,  
2 improvement, and operation of such sewers, sewer systems, and  
3 treatment and disposal facilities, as the board determines  
4 necessary for the preservation of public health and maintenance  
5 of sanitary conditions in the subdistrict;

6           (3) For the purpose of meeting the costs of activities  
7 undertaken pursuant to the authority granted in this section, to  
8 issue bonds in anticipation of revenues of the subdistrict in the  
9 same manner as set out in sections 204.360 to 204.450, for other  
10 bonds of the common sewer district. Issuance of such bonds for  
11 the subdistrict shall require the assent only of four-sevenths of  
12 the voters of the subdistrict voting on the question [~~, and~~]  
13 except that, as an alternative to such a vote, if the subdistrict  
14 is a part of a common sewer district located in whole or in part  
15 in any county of the first classification without a charter form  
16 of government adjacent to a county of the first classification  
17 with a charter form of government and a population of at least  
18 six hundred thousand and not more than seven hundred fifty  
19 thousand, bonds may be issued for such subdistrict if the  
20 question receives the written assent of three-quarters of the  
21 customers of the subdistrict in a manner consistent with section  
22 204.370, where "customer", as used in this subdivision, means any  
23 political subdivision within the subdistrict that has a service  
24 or user agreement with the common sewer district. The principal  
25 and interest of such bonds shall be payable only from the  
26 revenues of the subdistrict and not from any revenues of the  
27 common sewer district as a whole;



1           (4) To charge the costs of the common sewer district for  
2 operation and maintenance attributable to the subdistrict, plus a  
3 proportionate share of the common sewer district's costs of  
4 administration to revenues of the subdistrict and to consider  
5 such costs in determining reasonable charges to impose within the  
6 subdistrict under section 204.440;

7           (5) With prior concurrence of the subdistrict's advisory  
8 board, to provide for the treatment and disposal of sewage from  
9 the subdistrict in or by means of facilities of the common sewer  
10 district not located within the subdistrict, in which case the  
11 board of trustees shall also have authority to charge a  
12 proportionate share of the costs of the common sewer district for  
13 operation and maintenance to revenues of the subdistrict and to  
14 consider such costs in determining reasonable charges to impose  
15 within the subdistrict under section 204.440.

16           386.370. 1. The commission shall, prior to the beginning  
17 of each fiscal year beginning with the fiscal year commencing on  
18 July 1, 1947, make an estimate of the expenses to be incurred by  
19 it during such fiscal year reasonably attributable to the  
20 regulation of public utilities as provided in chapters 386, 392  
21 and 393 and shall also separately estimate the amount of such  
22 expenses directly attributable to such regulation of each of the  
23 following groups of public utilities: Electrical corporations,  
24 gas corporations, water corporations, heating companies and  
25 telephone corporations, telegraph corporations, sewer  
26 corporations, and any other public utility as defined in section  
27 386.020, as well as the amount of such expenses not directly

1 attributable to any such group. For purposes of this section,  
2 water corporations and sewer corporations will  
3 be combined and considered one group of public utilities.

4 2. The commission shall allocate to each such group of  
5 public utilities the estimated expenses directly attributable to  
6 the regulation of such group and an amount equal to such  
7 proportion of the estimated expenses not directly attributable to  
8 any group as the gross intrastate operating revenues of such  
9 group during the preceding calendar year bears to the total gross  
10 intrastate operating revenues of all public utilities subject to  
11 the jurisdiction of the commission, as aforesaid, during such  
12 calendar year. The commission shall then assess the amount so  
13 allocated to each group of public utilities, subject to reduction  
14 as herein provided, to the public utilities in such group in  
15 proportion to their respective gross intrastate operating  
16 revenues during the preceding calendar year, except that the  
17 total amount so assessed to all such public utilities shall not  
18 exceed [~~one-fourth~~] three hundred fifteen thousandths of one  
19 percent of the total gross intrastate operating revenues of all  
20 utilities subject to the jurisdiction of the commission.

21 3. The commission shall render a statement of such  
22 assessment to each such public utility on or before July first  
23 and the amount so assessed to each such public utility shall be  
24 paid by it to the director of revenue in full on or before July  
25 fifteenth next following the rendition of such statement, except  
26 that any such public utility may at its election pay such  
27 assessment in four equal installments not later than the

1 following dates next following the rendition  
2 of said statement, to wit: July fifteenth, October fifteenth,  
3 January fifteenth and April fifteenth. The director of revenue  
4 shall remit such payments to the state treasurer.

5 4. The state treasurer shall credit such payments to a  
6 special fund, which is hereby created, to be known as "The Public  
7 Service Commission Fund", which fund, or its successor fund  
8 created pursuant to section 33.571, shall be devoted solely to  
9 the payment of expenditures actually incurred by the commission  
10 and attributable to the regulation of such public utilities  
11 subject to the jurisdiction of the commission, as aforesaid. Any  
12 amount remaining in such special fund or its successor fund at  
13 the end of any fiscal year shall not revert to the general  
14 revenue fund, but shall be applicable by appropriation of the  
15 general assembly to the payment of such expenditures of the  
16 commission in the succeeding fiscal year and shall be applied by  
17 the commission to the reduction of the amount to be assessed to  
18 such public utilities in such succeeding fiscal year, such  
19 reduction to be allocated to each group of public utilities in  
20 proportion to the respective gross intrastate operating revenues  
21 of the respective groups during the preceding calendar year.

22 5. In order to enable the commission to make the  
23 allocations and assessments herein provided for, each public  
24 utility subject to the jurisdiction of the commission as  
25 aforesaid shall file with the commission, within ten days after  
26 August 28, 1996, and thereafter on or before March thirty-first  
27 of each year, a statement under oath showing

1 its gross intrastate operating revenues for the preceding  
2 calendar year, and if any public utility shall fail to file such  
3 statement within the time aforesaid the commission shall estimate  
4 such revenue which estimate shall be binding on such public  
5 utility for the purpose of this section.

6 386.800. 1. No municipally owned electric utility may  
7 provide electric energy at retail to any structure located  
8 outside the municipality's corporate boundaries after July 11,  
9 1991, unless:

10 (1) The structure was lawfully receiving permanent service  
11 from the municipally owned electric utility prior to July 11,  
12 1991; or

13 (2) The service is provided pursuant to an approved  
14 territorial agreement under section 394.312; or

15 (3) The service is provided pursuant to lawful municipal  
16 annexation and subject to the provisions of this section; or

17 (4) The structure is located in an area which was  
18 previously served by an electrical corporation regulated under  
19 chapter 386, and chapter 393, and the electrical corporation's  
20 authorized service territory was contiguous to or inclusive of  
21 the municipality's previous corporate boundaries, and the  
22 electrical corporation's ownership or operating rights within the  
23 area were acquired in total by the municipally owned electrical  
24 system prior to July 11, 1991. In the event that a municipally  
25 owned electric utility in a city with a population of more than  
26 one hundred twenty-five thousand located in a county of the first  
27 class not having a charter form of government and not adjacent to

1 any other county of the first class desires to serve customers  
2 beyond the authorized service territory in an area which was  
3 previously served by an electrical corporation regulated under  
4 the provisions of chapter 386, and chapter 393, as provided in  
5 this subdivision, in the absence of an approved territorial  
6 agreement under section 394.312, the municipally owned utility  
7 shall apply to the public service commission for an order  
8 assigning nonexclusive service territories and concurrently shall  
9 provide written notice of the application to other electric  
10 service suppliers with electric facilities located in or within  
11 one mile outside of the boundaries of the proposed expanded  
12 service territory. The proposed service area shall be contiguous  
13 to the authorized service territory which was previously served  
14 by an electrical corporation regulated under the provisions of  
15 chapter 386, and chapter 393, as a condition precedent to the  
16 granting of the application. The commission shall have one  
17 hundred twenty days from the date of application to grant or deny  
18 the requested order. The commission after a hearing may grant  
19 the order upon a finding that granting of the applicant's request  
20 is not detrimental to the public interest. In granting the  
21 applicant's request the commission shall give due regard to  
22 territories previously granted to or served by other electric  
23 service suppliers and the wasteful duplication of electric  
24 service facilities.

25 2. Any municipally owned electric utility may extend,  
26 pursuant to lawful annexation, its electric service territory to  
27 include ~~any structure located within a newly annexed area which~~

1 ~~has not received permanent service from another supplier within~~  
2 ~~ninety days prior to the effective date of the annexation]~~ areas  
3 where another electric supplier currently is not providing  
4 permanent service to a structure. If a rural electric  
5 cooperative has existing electric service facilities with  
6 adequate and necessary service capability located in or within  
7 one mile outside the boundaries of the area proposed to be  
8 annexed, a majority of the existing developers, landowners, or  
9 prospective electric customers in the area proposed to be annexed  
10 may, anytime within forty-five days prior to the effective date  
11 of the annexation, submit a written request to the governing body  
12 of the annexing municipality to invoke mandatory good faith  
13 negotiations under section 394.312 to determine which electric  
14 service supplier is best suited to serve all or portions of the  
15 newly annexed area. In such negotiations the following factors  
16 shall be considered, at a minimum:

17 (1) The preference of landowners and prospective electric  
18 customers;

19 (2) The rates, terms, and conditions of service of the  
20 electric service suppliers;

21 (3) The economic impact on the electric service suppliers;

22 (4) Each electric service supplier's operational ability to  
23 serve all or portions of the annexed area within three years of  
24 the date the annexation becomes effective;

25 (5) Avoiding the wasteful duplication of electric  
26 facilities;

1           (6) Minimizing unnecessary encumbrances on the property and  
2 landscape within the area to be annexed; and

3           (7) Preventing the waste of materials and natural  
4 resources.

5  
6 If the municipally owned electric utility and rural electric  
7 cooperative are unable to negotiate a territorial agreement  
8 pursuant to section 394.312 within forty-five days, then they may  
9 submit proposals to those submitting the original written  
10 request, whose preference shall control, section 394.080 to the  
11 contrary notwithstanding, and the governing body of the annexing  
12 municipality shall not reject the petition requesting annexation  
13 based on such preference. This subsection shall not apply to  
14 municipally-owned property in any newly annexed area.

15           3. In the event an electrical corporation rather than a  
16 municipally owned electric utility lawfully is providing electric  
17 service in the municipality, all the provisions of subsection 2  
18 of this section shall apply equally as if the electrical  
19 corporation were a municipally owned electric utility, except  
20 that if the electrical corporation and the rural electric  
21 cooperative are unable to negotiate a territorial agreement  
22 pursuant to section 394.312 within forty-five days, then either  
23 electric service supplier may file an application with the  
24 commission for an order determining which electric service  
25 supplier should serve, in whole or in part, the area to be  
26 annexed. The application shall be made pursuant to the rules and  
27 regulations of the commission governing applications for

1 certificates of public convenience and necessity. The commission  
2 after the opportunity for hearing shall make its determination  
3 after consideration of the factors set forth in subdivisions (1)  
4 through (7) of subsection 2 of this section, and section 394.080  
5 to the contrary notwithstanding, may grant its order upon a  
6 finding that granting of the applicant's request is not  
7 detrimental to the public interest. The commission shall issue  
8 its decision by report and order no later than one hundred twenty  
9 days from the date of the application unless otherwise ordered by  
10 the commission for good cause shown. Review of such commission  
11 decisions shall be governed by sections 386.500 to 386.550. If  
12 the applicant is a rural electric cooperative, the commission  
13 shall charge to the rural electric cooperative the appropriate  
14 fees as set forth in subsection 9 of this section.

15       ~~[3.]~~ 4. When a municipally owned electric utility desires  
16 to extend its service territory to include any structure located  
17 within a newly annexed area which has received permanent service  
18 from another electric service supplier within ninety days prior  
19 to the effective date of the annexation, it shall:

20           (1) Notify by publication in a newspaper of general  
21 circulation the record owner of said structure, and notify in  
22 writing any affected electric service supplier and the public  
23 service commission, within sixty days after the effective date of  
24 the annexation its desire to extend its service territory to  
25 include said structure; and

26           (2) Within six months after the effective date of the  
27 annexation receive the approval of the municipality's



1 governing body to begin negotiations pursuant to section 394.312  
2 with ~~any~~ the affected electric service supplier.

3 ~~4.~~ 5. Upon receiving approval from the municipality's  
4 governing body pursuant to subsection ~~3~~ 4 of this section, the  
5 municipally owned electric utility and the affected electric  
6 service supplier shall meet and negotiate in good faith the terms  
7 of the territorial agreement and any transfers or acquisitions,  
8 including, as an alternative, granting the affected electric  
9 service supplier a franchise or authority to continue providing  
10 service in the annexed area. In the event that the affected  
11 electric service supplier does not provide wholesale electric  
12 power to the municipality, if the affected electric service  
13 supplier so desires, the parties ~~shall~~ may also negotiate,  
14 consistent with applicable law, regulations and existing power  
15 supply agreements, for power contracts which would provide for  
16 the purchase of power by the municipality from the affected  
17 electric service supplier for an amount of power equivalent to  
18 the loss of any sales to customers receiving permanent service at  
19 structures within the annexed areas which are being sought by the  
20 municipally owned electric utility. The parties shall have no  
21 more than one hundred eighty days from the date of receiving  
22 approval from the municipality's governing body within which to  
23 conclude their negotiations and file their territorial agreement  
24 with the commission for approval under the provisions of section  
25 394.312. The time period for negotiations allowed under this  
26 subsection may be extended for a period not to exceed one hundred

1 eighty days by a mutual agreement of the parties and a written  
2 request with the public service commission.

3 ~~[5.]~~ 6. For purposes of this section, the term "fair and  
4 reasonable compensation" shall mean the following:

5 (1) The present-day reproduction cost, new, of the  
6 properties and facilities serving the annexed areas, less  
7 depreciation computed on a straight-line basis; and

8 (2) An amount equal to the reasonable and prudent cost of  
9 detaching the facilities in the annexed areas and the reasonable  
10 and prudent cost of constructing any necessary facilities to  
11 reintegrate the system of the affected electric service supplier  
12 outside the annexed area after detaching the portion to be  
13 transferred to the municipally owned electric utility; and

14 (3) ~~[Four]~~ Two hundred percent of gross revenues less gross  
15 receipts taxes received by the affected electric service supplier  
16 from the twelve-month period preceding the approval of the  
17 municipality's governing body under the provisions of subdivision  
18 (2) of subsection ~~[3]~~ 4 of this section, normalized to produce a  
19 representative usage from customers at the subject structures in  
20 the annexed area; and

21 (4) Any federal, state and local taxes which may be  
22 incurred as a result of the transaction, including the recapture  
23 of any deduction or credit; and

24 (5) Any other costs reasonably incurred by the affected  
25 electric supplier in connection with the transaction.

26 ~~[6.]~~ 7. In the event the parties are unable to reach an  
27 agreement under subsection ~~[4]~~ 5 of this section, within sixty

1 days after the expiration of the time specified for negotiations,  
2 the municipally owned electric utility or the affected electric  
3 service supplier may apply to the commission for an order  
4 assigning exclusive service territories within the annexed area  
5 and a determination of the fair and reasonable compensation  
6 amount to be paid to the affected electric service supplier under  
7 subsection ~~[5]~~ 6 of this section. Applications shall be made and  
8 notice of such filing shall be given to all affected parties  
9 pursuant to the rules and regulations of the commission governing  
10 applications for certificates of public convenience and  
11 necessity. Unless otherwise ordered by the commission for good  
12 cause shown, the commission shall rule on such applications not  
13 later than one hundred twenty days after the application is  
14 properly filed with the secretary of the commission. The  
15 commission shall hold evidentiary hearings to assign service  
16 territory between the affected electric service suppliers inside  
17 the annexed area and to determine the amount of compensation due  
18 any affected electric service supplier for the transfer of plant,  
19 facilities or associated lost revenues between electric service  
20 suppliers in the annexed area. The commission shall make such  
21 determinations based on findings of what best serves the public  
22 interest and shall issue its decision by report and order.  
23 Review of such commission decisions shall be governed by sections  
24 386.500 to 386.550. The payment of compensation and transfer of  
25 title and operation of the facilities shall occur within ninety  
26 days after the order and any appeal therefrom becomes final  
27 unless the order provides otherwise.

1           ~~[7.]~~ 8. In reaching its decision under subsection ~~[6]~~ 7 of  
2 this section, the commission shall consider the following  
3 factors:

4           (1) Whether the acquisition or transfers sought by the  
5 municipally owned electric utility within the annexed area from  
6 the affected electric service supplier are, in total, in the  
7 public interest, including the preference of the owner of any  
8 affected structure, consideration of rate disparities between the  
9 competing electric service suppliers, and issues of unjust rate  
10 discrimination among customers of a single electric service  
11 supplier if the rates to be charged in the annexed areas are  
12 lower than those charged to other system customers; and

13           (2) The fair and reasonable compensation to be paid by the  
14 municipally owned electric utility, to the affected electric  
15 service supplier with existing system operations within the  
16 annexed area, for any proposed acquisitions or transfers; and

17           (3) Any effect on system operation, including, but not  
18 limited to, loss of load and loss of revenue; and

19           (4) Any other issues upon which the municipally owned  
20 electric utility and the affected electric service supplier might  
21 otherwise agree, including, but not limited to, the valuation  
22 formulas and factors contained in subsections ~~[4, 5 and 6]~~ 5, 6,  
23 and 7, of this section, even if the parties could not voluntarily  
24 reach an agreement thereon under those subsections.

25           ~~[8.]~~ 9. The commission is hereby given all necessary  
26 jurisdiction over municipally owned electric utilities and rural  
27 electric cooperatives to carry out the purposes of this section

1 consistent with other applicable law; provided, however, the  
2 commission shall not have jurisdiction to compel the transfer of  
3 customers or structures with a connected load greater than one  
4 thousand kilowatts. The commission shall by rule set appropriate  
5 fees to be charged on a case-by-case basis to municipally owned  
6 electric utilities and rural electric cooperatives to cover all  
7 necessary costs incurred by the commission in carrying out its  
8 duties under this section. Nothing in this section shall be  
9 construed as otherwise conferring upon the public service  
10 commission jurisdiction over the service, rates, financing,  
11 accounting, or management of any rural electric cooperative or  
12 municipally owned electric utility, except as provided in this  
13 section.

14 10. Notwithstanding sections 394.020 and 394.080 to the  
15 contrary, a rural electric cooperative may provide electric  
16 service within the corporate boundaries of a municipality if such  
17 service is provided:

18 (1) Pursuant to subsections 2 through 9 of this section;  
19 and

20 (2) Such service is conditioned upon the execution of the  
21 appropriate territorial and municipal franchise agreements, which  
22 may include a nondiscriminatory requirement, consistent with  
23 other applicable law, that the rural electric cooperative collect  
24 and remit a sales tax based on the amount of electricity sold by  
25 the rural electric cooperative within the municipality.

26 386.895. 1. As used in this section, the following terms  
27 shall mean:

1           (1) "Biogas", a mixture of carbon dioxide and hydrocarbons,  
2 primarily methane gas, released from the biological  
3 decomposition of organic materials;

4           (2) "Biomass", has the meaning given the term "qualified  
5 biomass" in section 142.028;

6           (3) "Gas corporation", the same as defined in section  
7 386.020;

8           (4) "Qualified investment", any capital investment in  
9 renewable natural gas infrastructure incurred by a gas  
10 corporation for the purpose of providing natural gas service  
11 under a renewable natural gas program;

12           (5) "Renewable energy sources", hydroelectric, geothermal,  
13 solar photovoltaic, wind, tidal, wave, biomass, or biogas energy  
14 sources;

15           (6) "Renewable natural gas", any of the following products  
16 processed to meet pipeline quality standards or transportation  
17 fuel grade requirements:

18           (a) Biogas that is upgraded to meet natural gas pipeline  
19 quality standards such that it may blend with, or  
20 substitute for, geologic natural gas;

21           (b) Hydrogen gas; or

22           (c) Methane gas derived from any combination of:

23           a. Biogas;

24           b. Hydrogen gas or carbon oxides derived from renewable  
25 energy sources; or

26           c. Waste carbon dioxide;

1           (7) "Renewable natural gas infrastructure", all equipment  
2 and facilities for the production, processing, pipeline  
3 interconnection, and distribution of renewable natural gas to be  
4 furnished to Missouri customers.

5           2. The commission shall adopt rules for gas corporations to  
6 offer a voluntary renewable natural gas program. Rules adopted  
7 by the commission under this section shall include:

8           (1) Rules for reporting requirements; and

9           (2) Rules for establishing a process for gas corporations  
10 to fully recover incurred costs that are prudent, just, and  
11 reasonable associated with a renewable natural gas program. Such  
12 recovery shall not be permitted until the project is operational  
13 and produces renewable natural gas for customer use.

14           3. A filing by a gas corporation pursuant to the renewable  
15 natural gas program created in subsection 2 of this section shall  
16 include, but is not limited to:

17           (1) A proposal to procure a total volume of renewable  
18 natural gas over a specific period; and

19           (2) Identification of the qualified investments that the  
20 gas corporation may make in renewable natural gas infrastructure.

21           4. A gas corporation may from time to time revise the  
22 filing submitted to the commission under this section no more  
23 than one time per year.

24           5. Any costs incurred by a gas corporation for a qualified  
25 investment that are prudent, just, and reasonable may be  
26 recovered by means of an automatic rate adjustment clause.

1           6. When a gas corporation makes a qualified investment in  
2 the production of renewable natural gas, the costs associated  
3 with such qualified investment shall include the cost of capital  
4 established by the commission in the gas corporation's most  
5 recent general rate case.

6           7. On or before January 1, 2023, the division of energy  
7 within the department of natural resources shall provide to the  
8 chair of the public service commission, the speaker of the house  
9 of representatives, the president pro tempore of the senate, the  
10 chair of the senate committee on commerce, consumer protection,  
11 energy, and the environment, and the chair of the house of  
12 representatives utility committee, a report on the renewable  
13 natural gas program established under this section. Such report  
14 shall include, but not be limited to, the following:

15           (1) The number of projects submitted for the renewable  
16 natural gas program and the number of projects approved for the  
17 renewable natural gas program;

18           (2) The number of projects that are operational, and the  
19 costs, projected and actual, of such projects and other key  
20 metrics the division of energy deems important;

21           (3) The volume of renewable natural gas produced in the  
22 state through projects that were approved by the renewable  
23 natural gas program as well as the percentage of renewable  
24 natural gas produced in relation to the total volume of natural  
25 gas sold in the state;



1       (4) The environmental benefits of renewable natural gas,  
2 including but not limited to greenhouse gas reduction as a result  
3 of the production of renewable natural gas;

4       (5) The economic benefits of the renewable natural gas  
5 program, including but not limited to local employment, value-  
6 added production for the agricultural sector, and other economic  
7 development; and

8       (6) Any economic benefits or other costs to ratepayers.

9       8. Rules adopted by the commission under this section  
10 shall not prohibit an affiliate of a gas corporation from making  
11 a capital investment in a biogas production project if the  
12 affiliate is not a public utility as defined in section 386.020.

13       9. The public service commission may promulgate rules to  
14 implement the provisions of this section. Any rule or portion of  
15 a rule, as that term is defined in section 536.010, that is  
16 created under the authority delegated in this section shall  
17 become effective only if it complies with and is subject to all  
18 of the provisions of chapter 536 and, if applicable, section  
19 536.028. This section and chapter 536 are nonseverable and if  
20 any of the powers vested with the general assembly pursuant to  
21 chapter 536 to review, to delay the effective date, or to  
22 disapprove and annul a rule are subsequently held  
23 unconstitutional, then the grant of rulemaking authority and any  
24 rule proposed or adopted after August 28, 2021, shall be invalid  
25 and void.

26       10. Pursuant to section 23.253 of the Missouri sunset act,  
27 this section and any rules enacted under this section shall

1 expire nine years from the date the renewable natural gas program  
2 is established, unless reauthorized by the general assembly;  
3 provided that any rate adjustment authorized by this section  
4 shall continue so long as the renewable natural gas program  
5 remains in operation and produces renewable natural gas for  
6 customer use.

7 393.106. 1. As used in this section, the following terms  
8 mean:

9 (1) "Auxiliary power", the energy used to operate equipment  
10 and other load that is directly related to the production of  
11 energy by an independent power producer or electrical  
12 corporation, obtained through generation at the site or through  
13 adjacent transformation and transmission interconnect, but does  
14 not include energy used for space heating, lighting, air  
15 conditioning, office needs of buildings, and other non-generating  
16 uses at the generation site;

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

24 (3) "Permanent service", electrical service provided  
25 through facilities which have been permanently installed on a  
26 structure and which are designed to provide electric service for  
27 the structure's anticipated needs for the indefinite future, as

1 contrasted with facilities installed temporarily to provide  
2 electrical service during construction. Service provided  
3 temporarily shall be at the risk of the electrical supplier and  
4 shall not be determinative of the rights of the provider or  
5 recipient of permanent service;

6 ~~[(2)]~~ (4) "Structure" or "structures", an agricultural,  
7 residential, commercial, industrial or other building or a  
8 mechanical installation, machinery or apparatus at which retail  
9 electric energy is being delivered through a metering device  
10 which is located on or adjacent to the structure and connected to  
11 the lines of an electrical supplier. Such terms shall include  
12 any contiguous or adjacent additions to or expansions of a  
13 particular structure. Nothing in this section shall be construed  
14 to confer any right on an electric supplier to serve new  
15 structures on a particular tract of land because it was serving  
16 an existing structure on that tract.

17 2. Once an electrical corporation or joint municipal  
18 utility commission, or its predecessor in interest, lawfully  
19 commences supplying retail electric energy to a structure through  
20 permanent service facilities, it shall have the right to continue  
21 serving such structure, and other suppliers of electrical energy  
22 shall not have the right to provide service to the structure  
23 except as might be otherwise permitted in the context of  
24 municipal annexation, pursuant to section 386.800 and section  
25 394.080, or pursuant to a territorial agreement approved under  
26 section 394.312. The public service commission, upon application  
27 made by an affected party, may order a change of suppliers on the

1 basis that it is in the public interest for a reason other than a  
2 rate differential. The commission's jurisdiction under this  
3 section is limited to public interest determinations and excludes  
4 questions as to the lawfulness of the provision of service, such  
5 questions being reserved to courts of competent jurisdiction.  
6 Except as provided in this section, nothing contained herein  
7 shall affect the rights, privileges or duties of existing  
8 corporations pursuant to this chapter. Nothing in this section  
9 shall be construed to make lawful any provision of service which  
10 was unlawful prior to July 11, 1991. Nothing in this section  
11 shall be construed to make unlawful the continued lawful  
12 provision of service to any structure which may have had a  
13 different supplier in the past, if such a change in supplier was  
14 lawful at the time it occurred. However, those customers who had  
15 cancelled service with their previous supplier or had requested  
16 cancellation by May 1, 1991, shall be eligible to change  
17 suppliers as per previous procedures. No customer shall be  
18 allowed to change electric suppliers by disconnecting service  
19 between May 1, 1991, and July 11, 1991.

20 3. Notwithstanding the provisions of subsection 2 of this  
21 section or any other provision of chapters 386 or 394 to the  
22 contrary, auxiliary power may be purchased on a wholesale basis,  
23 under the applicable federal tariffs of a regional transmission  
24 organization instead of under retail service tariffs filed with  
25 the public service commission by an electrical corporation, for  
26 use at an electric generation facility located in any county of  
27 the first classification with more than ninety-two thousand but

1 fewer than one hundred one thousand inhabitants which commenced  
2 commercial operations prior to August 28, 2021, and which is  
3 operated as an independent power producer.

4 4. Notwithstanding the provisions of this section, section  
5 91.025, section 394.080, and section 394.315 to the contrary, in  
6 the event that a retail electric supplier is providing service to  
7 a structure located within a city, town, or village that ceased  
8 to be a rural area, and such structure is demolished and replaced  
9 by a new structure, such retail electric service supplier may  
10 provide permanent service to the new structure upon the request  
11 of the owner of the new structure.

12 393.355. 1. As used in this section, the following terms  
13 shall mean:

14 (1) "Electrical corporation", the same meaning given to the  
15 term in section 386.020, but shall not include an electrical  
16 corporation as described in subsection 2 of section 393.110;

17 (2) "Facility", a:

18 (a) Facility whose primary industry is the ~~[smelting]~~  
19 ~~processing of [aluminum and] primary metals[, Standard Industrial~~  
20 ~~Classification Code 3334];~~

21 (b) Facility whose primary industry is the production or  
22 fabrication of steel, North American Industrial Classification  
23 System 331110; or

24 (c) Facility with a new or incremental increase in load  
25 equal to or in excess of a monthly demand of fifty megawatts.

26 2. Notwithstanding section 393.130 or any other provision  
27 of law to the contrary, the public service commission shall have

1 the authority to approve a special rate, outside a general rate  
2 proceeding, that is not based on the electrical corporation's  
3 cost of service for a facility if:

4 (1) The commission determines, but for the authorization of  
5 the special rate the facility would not commence operations, the  
6 special rate is in the interest of the state of Missouri when  
7 considering the interests of the customers of the electrical  
8 corporation serving the facility, considering the incremental  
9 cost of serving the facility to receive the special rate, and the  
10 interests of the citizens of the state generally in promoting  
11 economic development, improving the tax base, providing  
12 employment opportunities in the state, and promoting such other  
13 benefits to the state as the commission may determine are created  
14 by approval of the special rate;

15 (2) After approval of the special rate, the commission  
16 allocates in each general rate proceeding of the electrical  
17 corporation serving the facility the reduced revenues from the  
18 special rate as compared to the revenues that would have been  
19 generated at the rate the facility would have paid without the  
20 special rate to the electrical corporation's other customers  
21 through a uniform percentage adjustment to all components of the  
22 base rates of all customer classes; and

23 (3) The commission approves a tracking mechanism meeting  
24 the requirements of subsection 3 of this section.

25 3. Any commission order approving a special rate authorized  
26 by this section to provide service to a facility in the manner  
27 specified under subsection 4 of this section shall establish, as

1 part of the commission's approval of a special rate, a tracking  
2 mechanism to track changes in the net margin experienced by the  
3 electrical corporation serving the facility with the tracker to  
4 apply retroactively to the date the electrical corporation's base  
5 rates were last set in its last general rate proceeding concluded  
6 prior to June 14, 2017. The commission shall ensure that the  
7 changes in net margin experienced by the electrical corporation  
8 between the general rate proceedings as a result of serving the  
9 facility are calculated in such a manner that the electrical  
10 corporation's net income is neither increased nor decreased. The  
11 changes in net margin shall be deferred to a regulatory liability  
12 or regulatory asset, as applicable, with the balance of such  
13 regulatory asset or liability to be included in the revenue  
14 requirement of the electrical corporation in each of its general  
15 rate proceedings through an amortization of the balance over a  
16 reasonable period until fully returned to or collected from the  
17 electrical corporation's customers.

18 4. Notwithstanding the provisions of section 393.170, an  
19 electrical corporation is authorized to provide electric service  
20 to a facility at a special rate for the new or incremental load  
21 authorized by the commission:

22 (1) Under a rate schedule reflecting the special rate  
23 approved by the commission; or

24 (2) If the facility is located outside the electrical  
25 corporation's certificated service territory, the facility shall  
26 be treated as if it is in the electrical corporation's certified

1 service territory, subject to a commission-approved rate schedule  
2 incorporating the special rate under the contract.

3 5. To receive a special rate, the electrical corporation  
4 serving the facility, or facility if the facility is located  
5 outside of the electrical corporation's certified service  
6 territory, shall file a written application with the commission  
7 specifying the requested special rate and any terms or conditions  
8 proposed by the facility respecting the requested special rate  
9 and provide information regarding how the requested special rate  
10 meets the criteria specified in subdivision (1) of subsection 2  
11 of this section. A special rate provided for by this section  
12 shall be effective for no longer than ten years from the date  
13 such special rate is authorized. The commission may impose such  
14 conditions, including but not limited to any conditions in a  
15 memorandum of understanding between the facility and the  
16 electrical corporation, on the special rate as it deems  
17 appropriate so long as it otherwise complies with the provisions  
18 of this section.

19 6. Any entity which has been granted a special rate under  
20 this section may reapply to the commission for a special rate  
21 under this section.

22 393.1620. 1. For the purposes of this section, the  
23 following terms shall mean:

24 (1) "Average and excess method", a method for allocation of  
25 production plant costs using factors that consider the classes'  
26 average demands and excess demands, determined by subtracting the  
27 average demands from the non-coincident peak demands, for the



1 four months with the highest system peak loads. The production  
2 plant costs are allocated using the class average and excess  
3 demands proportionally based on the system load factor, where the  
4 system load factor determines the percentage of production plant  
5 costs allocated using the average demands, and the remainder of  
6 production plant costs are allocated using the excess demands;

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

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

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

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

18 2. In determining the allocation of an electrical  
19 corporation's total revenue requirement in a general rate case,  
20 the commission shall only consider class cost of service study  
21 results that allocate the electrical corporation's production  
22 plant costs from nuclear and fossil generating units using the  
23 average and excess method or one of the methods of assignment or  
24 allocation contained within the National Association of  
25 Regulatory Utility Commissioners 1992 manual or subsequent  
26 manual.

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

1           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, letter  
4 of credit, reserve account, surety bond, interest rate lock or  
5 swap arrangement, hedging arrangement, liquidity or credit  
6 support arrangement, or other financial arrangement entered into  
7 in connection with securitized utility tariff bonds;

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

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

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

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

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

24           (7) "Energy transition costs", include all of the  
25 following:

26           (a) Pretax costs with respect to a retired or abandoned or  
27 to be retired or abandoned electric generating facility that is

1 the subject of a petition for a financing order filed under this  
2 section where such early retirement or abandonment is deemed  
3 reasonable and prudent by the commission through a final order  
4 issued by the commission, include, but are not limited to, the  
5 undepreciated investment in the retired or abandoned or to be  
6 retired or abandoned electric generating facility and any  
7 facilities ancillary thereto or used in conjunction therewith,  
8 costs of decommissioning and restoring the site of the electric  
9 generating facility, other applicable capital and operating  
10 costs, accrued carrying charges, and deferred expenses, with the  
11 foregoing to be reduced by applicable tax benefits of accumulated  
12 and excess deferred income taxes, insurance, scrap and salvage  
13 proceeds, and may include the cost of retiring any existing  
14 indebtedness, fees, costs, and expenses to modify existing debt  
15 agreements or for waivers or consents related to existing debt  
16 agreements;

17 (b) Pretax costs that an electrical corporation has  
18 previously incurred related to the retirement or abandonment of  
19 such an electric generating facility occurring before August 28,  
20 2021;

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

22 (a) Interest and acquisition, defeasance, or redemption  
23 premiums payable on securitized utility tariff bonds;

24 (b) Any payment required under an ancillary agreement and  
25 any amount required to fund or replenish a reserve account or  
26 other accounts established under the terms of any indenture,

1 ancillary agreement, or other financing documents pertaining to  
2 securitized utility tariff bonds;

3 (c) Any other cost related to issuing, supporting,  
4 repaying, refunding, and servicing securitized utility tariff  
5 bonds, including servicing fees, accounting and auditing fees,  
6 trustee fees, legal fees, consulting fees, structuring adviser  
7 fees, administrative fees, placement and underwriting fees,  
8 independent director and manager fees, capitalized interest,  
9 rating agency fees, stock exchange listing and compliance fees,  
10 security registration fees, filing fees, information technology  
11 programming costs, and any other costs necessary to otherwise  
12 ensure the timely payment of securitized utility tariff bonds or  
13 other amounts or charges payable in connection with the bonds,  
14 including costs related to obtaining the financing order;

15 (d) Any taxes and license fees or other fees imposed on the  
16 revenues generated from the collection of the securitized utility  
17 tariff charge or otherwise resulting from the collection of  
18 securitized utility tariff charges, in any such case whether  
19 paid, payable, or accrued;

20 (e) Any state and local taxes, franchise, gross receipts,  
21 and other taxes or similar charges, including commission  
22 assessment fees, whether paid, payable, or accrued;

23 (f) Any costs associated with performance of the  
24 commission's responsibilities under this section in connection  
25 with approving, approving subject to conditions, or rejecting a  
26 petition for a financing order, and in performing its duties in  
27 connection with the issuance advice letter process, including

1 costs to retain counsel, one or more financial advisors, or other  
2 consultants as deemed appropriate by the commission and paid  
3 pursuant to this section;

4 (9) "Financing order", an order from the commission that  
5 authorizes the issuance of securitized utility tariff bonds; the  
6 imposition, collection, and periodic adjustments of a securitized  
7 utility tariff charge; the creation of securitized utility tariff  
8 property; and the sale, assignment, or transfer of securitized  
9 utility tariff property to an assignee;

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

13 (11) "Financing statement", the same as defined in article  
14 9 of the code;

15 (12) "Pledgee", a financing party to which an electrical  
16 corporation or its successors or assignees mortgages, negotiates,  
17 pledges, or creates a security interest or lien on all or any  
18 portion of its interest in or right to securitized utility tariff  
19 property;

20 (13) "Qualified extraordinary costs", costs incurred  
21 prudently before, on, or after August 28, 2021, of an  
22 extraordinary nature which would cause extreme customer rate  
23 impacts if reflected in retail customer rates recovered through  
24 customary ratemaking, such as but not limited to those related to  
25 purchases of fuel or power, inclusive of carrying charges, during  
26 anomalous weather events;

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

4       (15) "Securitized utility tariff bonds", bonds, debentures,  
5 notes, certificates of participation, certificates of beneficial  
6 interest, certificates of ownership, or other evidences of  
7 indebtedness or ownership that are issued by an electrical  
8 corporation or an assignee pursuant to a financing order, the  
9 proceeds of which are used directly or indirectly to recover,  
10 finance, or refinance commission-approved securitized utility  
11 tariff costs and financing costs, and that are secured by or  
12 payable from securitized utility tariff property. If  
13 certificates of participation or ownership are issued, references  
14 in this section to principal, interest, or premium shall be  
15 construed to refer to comparable amounts under those  
16 certificates;

17       (16) "Securitized utility tariff charge", the amounts  
18 authorized by the commission to repay, finance, or refinance  
19 securitized utility tariff costs and financing costs and that  
20 are, except as otherwise provided for in this section,  
21 nonbypassable charges imposed on and part of all retail customer  
22 bills, collected by an electrical corporation or its successors  
23 or assignees, or a collection agent, in full, separate and apart  
24 from the electrical corporation's base rates, and paid by all  
25 existing or future retail customers receiving electrical service  
26 from the electrical corporation or its successors or assignees  
27 under commission-approved rate schedules, except for customers

1 receiving electrical service under special contracts as of August  
2 28, 2021, even if a retail customer elects to purchase  
3 electricity from an alternative electricity supplier following a  
4 fundamental change in regulation of public utilities in this  
5 state;

6 (17) "Securitized utility tariff costs", either energy  
7 transition costs or qualified extraordinary costs as the case may  
8 be;

9 (18) "Securitized utility tariff property", all of the  
10 following:

11 (a) All rights and interests of an electrical corporation  
12 or successor or assignee of the electrical corporation under a  
13 financing order, including the right to impose, bill, charge,  
14 collect, and receive securitized utility tariff charges  
15 authorized under the financing order and to obtain periodic  
16 adjustments to such charges as provided in the financing order;

17 (b) All revenues, collections, claims, rights to payments,  
18 payments, money, or proceeds arising from the rights and  
19 interests specified in the financing order, regardless of whether  
20 such revenues, collections, claims, rights to payment, payments,  
21 money, or proceeds are imposed, billed, received, collected, or  
22 maintained together with or commingled with other revenues,  
23 collections, rights to payment, payments, money, or proceeds;

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

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

5           (a) A description of the electric generating facility or  
6 facilities that the electrical corporation has retired or  
7 abandoned, or proposes to retire or abandon, prior to the date  
8 that all undepreciated investment relating thereto has been  
9 recovered through rates and the reasons for undertaking such  
10 early retirement or abandonment, or if the electrical corporation  
11 is subject to a separate commission order or proceeding relating  
12 to such retirement or abandonment as contemplated by subdivision  
13 (2) of this subsection, and a description of the order or other  
14 proceeding;

15           (b) The energy transition costs;

16           (c) An indicator of whether the electrical corporation  
17 proposes to finance all or a portion of the energy transition  
18 costs using securitized utility tariff bonds. If the electrical  
19 corporation proposes to finance a portion of the costs, the  
20 electrical corporation shall identify the specific portion in the  
21 petition. By electing not to finance all or any portion of such  
22 energy transition costs using securitized utility tariff bonds,  
23 an electrical corporation shall not be deemed to waive its right  
24 to recover such costs pursuant to a separate proceeding with the  
25 commission;

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



1           (e) An estimate of the securitized utility tariff charges  
2 necessary to recover the securitized utility tariff costs and  
3 financing costs and the period for recovery of such costs;

4           (f) A comparison between the net present value of the costs  
5 to customers that are estimated to result from the issuance of  
6 securitized utility tariff bonds and the costs that would result  
7 from the application of the traditional method of financing and  
8 recovering the undepreciated investment of facilities that may  
9 become securitized utility tariff costs from customers. The  
10 comparison should demonstrate that the issuance of securitized  
11 utility tariff bonds and the imposition of securitized utility  
12 tariff charges are expected to provide quantifiable net present  
13 value benefits to customers;

14           (g) A proposed future ratemaking process to reconcile any  
15 differences between securitized utility tariff costs financed by  
16 securitized utility tariff bonds and the final securitized costs  
17 incurred by the electrical corporation or assignee provided that  
18 any such reconciliation shall not affect the amount of  
19 securitized utility tariff bonds or the associated securitized  
20 utility tariff charges paid by customers; and

21           (h) Direct testimony supporting the petition.

22           (2) An electrical corporation may petition the commission  
23 for a financing order to finance qualified extraordinary costs.  
24 The petition shall include all of the following:

25           (a) A description of the qualified extraordinary costs,  
26 including their magnitude, the reasons those costs were incurred  
27 by the electrical corporation and the retail customer rate impact

1 that would result from customary ratemaking treatment of such  
2 costs;

3 (b) An indicator of whether the electrical corporation  
4 proposes to finance all or a portion of the qualified  
5 extraordinary costs using securitized utility tariff bonds. If  
6 the electrical corporation proposes to finance a portion of the  
7 costs, the electrical corporation shall identify the specific  
8 portion in the petition. By electing not to finance all or any  
9 portion of such qualified extraordinary costs using securitized  
10 utility tariff bonds, an electrical corporation shall not be  
11 deemed to waive its right to reflect such costs in its retail  
12 rates pursuant to a separate proceeding with the commission;

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

15 (d) An estimate of the securitized utility tariff charges  
16 necessary to recover the qualified extraordinary costs and  
17 financing costs and the period for recovery of such costs;

18 (e) A comparison between the net present value of the costs  
19 to customers that are estimated to result from the issuance of  
20 securitized utility tariff bonds and the costs that would result  
21 from the application of the customary method of financing and  
22 reflecting the qualified extraordinary costs in retail customer  
23 rates. The comparison should demonstrate that the issuance of  
24 securitized utility tariff bonds and the imposition of  
25 securitized utility tariff charges are expected to provide  
26 quantifiable net present value benefits to retail customers;

1       (f) A proposed future ratemaking process to reconcile any  
2 differences between securitized utility tariff costs financed by  
3 securitized utility tariff bonds and the final securitized costs  
4 incurred by the electrical corporation or assignee provided that  
5 any such reconciliation shall not affect the amount of  
6 securitized utility tariff bonds or the associated securitized  
7 utility tariff charges paid by customers; and

8       (g) Direct testimony supporting the petition.

9       (3) (a) Proceedings on a petition submitted pursuant to  
10 this subsection begin with the petition by an electrical  
11 corporation and shall be disposed of in accordance with the  
12 requirements of this section and the rules of the commission,  
13 except as follows:

14       a. The commission shall establish a procedural schedule  
15 that permits a commission decision no later than two hundred  
16 fifteen days after the date the petition is filed;

17       b. No later than two hundred fifteen days after the date  
18 the petition is filed, the commission shall issue a financing  
19 order approving the petition, an order approving the petition  
20 subject to conditions, or an order rejecting the petition;  
21 provided, however, that the electrical corporation shall provide  
22 notice of intent to file a petition for a financing order to the  
23 commission no less than sixty days in advance of such filing;

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

26       (b) In performing its responsibilities under this section  
27 in approving, approving subject to conditions, or rejecting a

1 petition for a financing order, the commission may retain  
2 counsel, one or more financial advisors, or other consultants as  
3 it deems appropriate. Such outside counsel, advisor or advisors,  
4 or consultants shall owe a duty of loyalty solely to the  
5 commission and shall have no interest in the proposed securitized  
6 utility tariff bonds. The costs associated with any such  
7 engagements shall be paid by the petitioning corporation and  
8 shall be included as financed costs in the securitized utility  
9 tariff charge and shall not be an obligation of the state and  
10 shall be assigned solely to the subject transaction.

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

14 a. The amount of securitized utility tariff costs to be  
15 financed using securitized utility tariff bonds and a finding  
16 that recovery of such costs is just and reasonable and in the  
17 public interest. The commission shall describe and estimate the  
18 amount of financing costs that may be recovered through  
19 securitized utility tariff charges and specify the period over  
20 which securitized utility tariff costs and financing costs may be  
21 recovered;

22 b. A finding that the proposed issuance of securitized  
23 utility tariff bonds and the imposition and collection of a  
24 securitized utility tariff charge are just and reasonable and in  
25 the public interest and are expected to provide quantifiable net  
26 present value benefits to customers as compared to recovery of  
27 the components of securitized utility tariff costs that would

1 have been incurred absent the issuance of securitized utility  
2 tariff bonds. Notwithstanding any provisions of this section to  
3 the contrary, in considering whether to find the proposed  
4 issuance of securitized utility tariff bonds and the imposition  
5 and collection of a securitized utility tariff charge are just  
6 and reasonable and in the public interest, the commission may  
7 consider previous instances where it has issued financing orders  
8 to the petitioning electrical corporation and such electrical  
9 corporation has previously issued securitized utility tariff  
10 bonds;

11 c. A finding that the proposed structuring and pricing of  
12 the securitized utility tariff bonds are reasonably expected to  
13 result in the lowest securitized utility tariff charges  
14 consistent with market conditions at the time the securitized  
15 utility tariff bonds are priced and the terms of the financing  
16 order;

17 d. A requirement that, for so long as the securitized  
18 utility tariff bonds are outstanding and until all financing  
19 costs have been paid in full, the imposition and collection of  
20 securitized utility tariff charges authorized under a financing  
21 order shall be nonbypassable and paid by all existing and future  
22 retail customers receiving electrical service from the electrical  
23 corporation or its successors or assignees under commission-  
24 approved rate schedules except for customers receiving electrical  
25 service under special contracts on August 28, 2021, even if a  
26 retail customer elects to purchase electricity from an

1 alternative electric supplier following a fundamental change in  
2 regulation of public utilities in this state;

3 e. A formula-based true-up mechanism for making, at least  
4 annually, expeditious periodic adjustments in the securitized  
5 utility tariff charges that customers are required to pay  
6 pursuant to the financing order and for making any adjustments  
7 that are necessary to correct for any overcollection or  
8 undercollection of the charges or to otherwise ensure the timely  
9 payment of securitized utility tariff bonds and financing costs  
10 and other required amounts and charges payable under the  
11 securitized utility tariff bonds;

12 f. The securitized utility tariff property that is, or  
13 shall be, created in favor of an electrical corporation or its  
14 successors or assignees and that shall be used to pay or secure  
15 securitized utility tariff bonds and approved financing costs;

16 g. The degree of flexibility to be afforded to the  
17 electrical corporation in establishing the terms and conditions  
18 of the securitized utility tariff bonds, including, but not  
19 limited to, repayment schedules, expected interest rates, and  
20 other financing costs;

21 h. How securitized utility tariff charges will be allocated  
22 among retail customer classes. The initial allocation shall  
23 remain in effect until the electrical corporation completes a  
24 general rate proceeding, and once the commission's order from  
25 that general rate proceeding becomes final, all subsequent  
26 applications of an adjustment mechanism regarding securitized  
27 utility tariff charges shall incorporate changes in the

1 allocation of costs to customers as detailed in the commission's  
2 order from the electrical corporation's most recent general rate  
3 proceeding;

4 i. A requirement that, after the final terms of an issuance  
5 of securitized utility tariff bonds have been established and  
6 before the issuance of securitized utility tariff bonds, the  
7 electrical corporation determines the resulting initial  
8 securitized utility tariff charge in accordance with the  
9 financing order, and that such initial securitized utility tariff  
10 charge be final and effective upon the issuance of such  
11 securitized utility tariff bonds with such charge to be reflected  
12 on a compliance tariff sheet bearing such charge;

13 j. A method of tracing funds collected as securitized  
14 utility tariff charges, or other proceeds of securitized utility  
15 tariff property, determining that such method shall be deemed the  
16 method of tracing such funds and determining the identifiable  
17 cash proceeds of any securitized utility tariff property subject  
18 to a financing order under applicable law;

19 k. A statement specifying a future ratemaking process to  
20 reconcile any differences between the actual securitized utility  
21 tariff costs financed by securitized utility tariff bonds and the  
22 final securitized utility tariff costs incurred by the electrical  
23 corporation or assignee provided that any such reconciliation  
24 shall not affect the amount of securitized utility tariff bonds  
25 or the associated securitized utility tariff charges paid by  
26 customers;

1           l. A procedure that shall allow the electrical corporation  
2 to earn a return, at the cost of capital authorized from time to  
3 time by the commission in the electrical corporation's rate  
4 proceedings, on any moneys advanced by the electrical corporation  
5 to fund reserves, if any, or capital accounts established under  
6 the terms of any indenture, ancillary agreement, or other  
7 financing documents pertaining to the securitized utility tariff  
8 bonds;

9           m. In a financing order granting authorization to  
10 securitize energy transition costs or in a financing order  
11 granting authorization to securitize qualified extraordinary  
12 costs that include retired or abandoned facility costs, a  
13 procedure for the treatment of accumulated deferred income taxes  
14 and excess deferred income taxes in connection with the retired  
15 or abandoned or to be retired or abandoned electric generating  
16 facility, or in connection with retired or abandoned facilities  
17 included in qualified extraordinary costs. The accumulated  
18 deferred income taxes, including excess deferred income taxes,  
19 shall be excluded from rate base in future general rate cases and  
20 the net tax benefits relating to amounts that will be recovered  
21 through the issuance of securitized utility tariff bonds shall be  
22 credited to retail customers by reducing the amount of such  
23 securitized utility tariff bonds that would otherwise be issued.  
24 The customer credit shall include the net present value of the  
25 tax benefits, calculated using a discount rate equal to the  
26 expected interest rate of the securitized utility tariff bonds,  
27 for the estimated accumulated and excess deferred income taxes at



1 the time of securitization including timing differences created  
2 by the issuance of securitized utility tariff bonds amortized  
3 over the period of the bonds multiplied by the expected interest  
4 rate on such securitized utility tariff bonds;

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

9 o. Include any other conditions that the commission  
10 considers appropriate and that are not inconsistent with this  
11 section.

12 (d) A financing order issued to an electrical corporation  
13 may provide that creation of the electrical corporation's  
14 securitized utility tariff property is conditioned upon, and  
15 simultaneous with, the sale or other transfer of the securitized  
16 utility tariff property to an assignee and the pledge of the  
17 securitized utility tariff property to secure securitized utility  
18 tariff bonds.

19 (e) If the commission issues a financing order, the  
20 electrical corporation shall file with the commission at least  
21 annually a petition or a letter applying the formula-based true-  
22 up mechanism and, based on estimates of consumption for each rate  
23 class and other mathematical factors, requesting administrative  
24 approval to make the applicable adjustments. The review of the  
25 filing shall be limited to determining whether there are any  
26 mathematical or clerical errors in the application of the  
27 formula-based true-up mechanism relating to the appropriate

1 amount of any overcollection or undercollection of securitized  
2 utility tariff charges and the amount of an adjustment. The  
3 adjustments shall ensure the recovery of revenues sufficient to  
4 provide for the payment of principal, interest, acquisition,  
5 defeasance, financing costs, or redemption premium and other  
6 fees, costs, and charges in respect of securitized utility tariff  
7 bonds approved under the financing order. Within thirty days  
8 after receiving an electrical corporation's request pursuant to  
9 this paragraph, the commission shall either approve the request  
10 or inform the electrical corporation of any mathematical or  
11 clerical errors in its calculation. If the commission informs  
12 the electrical corporation of mathematical or clerical errors in  
13 its calculation, the electrical corporation shall correct its  
14 error and refile its request. The time frames previously  
15 described in this paragraph shall apply to a refiled request.

16 (f) At the time of any transfer of securitized utility  
17 tariff property to an assignee or the issuance of securitized  
18 utility tariff bonds authorized thereby, whichever is earlier, a  
19 financing order is irrevocable and, except for changes made  
20 pursuant to the formula-based true-up mechanism authorized in  
21 this section, the commission may not amend, modify, or terminate  
22 the financing order by any subsequent action or reduce, impair,  
23 postpone, terminate, or otherwise adjust securitized utility  
24 tariff charges approved in the financing order. After the  
25 issuance of a financing order, the electrical corporation retains  
26 sole discretion regarding whether to assign, sell, or otherwise  
27 transfer securitized utility tariff property or to cause

1 securitized utility tariff bonds to be issued, including the  
2 right to defer or postpone such assignment, sale, transfer, or  
3 issuance.

4 (g) The commission, in a financing order and subject to the  
5 issuance advice letter process under paragraph (h) of this  
6 subdivision, shall specify the degree of flexibility to be  
7 afforded the electrical corporation in establishing the terms and  
8 conditions for the securitized utility tariff bonds to  
9 accommodate changes in market conditions, including repayment  
10 schedules, interest rates, financing costs, collateral  
11 requirements, required debt service and other reserves and the  
12 ability of the electrical corporation, at its option, to effect a  
13 series of issuances of securitized utility tariff bonds and  
14 correlated assignments, sales, pledges, or other transfers of  
15 securitized utility tariff property. Any changes made under this  
16 paragraph to terms and conditions for the securitized utility  
17 tariff bonds shall be in conformance with the financing order.

18 (h) As the actual structure and pricing of the securitized  
19 utility tariff bonds will be unknown at the time the financing  
20 order is issued, prior to the issuance of each series of bonds,  
21 an issuance advice letter shall be provided to the commission by  
22 the electrical corporation following the determination of the  
23 final terms of such series of bonds no later than one day after  
24 the pricing of the securitized utility tariff bonds. The  
25 commission shall have the authority to designate a representative  
26 or representatives from commission staff, who may be advised by a  
27 financial advisor or advisors contracted with the commission, to

1 provide input to the electrical corporation and collaborate with  
2 the electrical corporation in all facets of the process  
3 undertaken by the electrical corporation to place the securitized  
4 utility tariff bonds to market so the commission's representative  
5 or representatives can provide the commission with an opinion on  
6 the reasonableness of the pricing, terms, and conditions of the  
7 securitized utility tariff bonds on an expedited basis. Neither  
8 the designated representative or representatives from the  
9 commission staff nor one or more financial advisors advising  
10 commission staff shall have authority to direct how the  
11 electrical corporation places the bonds to market although they  
12 shall be permitted to attend all meetings convened by the  
13 electrical corporation to address placement of the bonds to  
14 market. The form of such issuance advice letter shall be  
15 included in the financing order and shall indicate the final  
16 structure of the securitized utility tariff bonds and provide the  
17 best available estimate of total ongoing financing costs. The  
18 issuance advice letter shall report the initial securitized  
19 utility tariff charges and other information specific to the  
20 securitized utility tariff bonds to be issued, as the commission  
21 may require. Unless an earlier date is specified in the  
22 financing order, the electrical corporation may proceed with the  
23 issuance of the securitized utility tariff bonds unless, prior to  
24 noon on the fourth business day after the commission receives the  
25 issuance advice letter, the commission issues a disapproval  
26 letter directing that the bonds as proposed shall not be issued  
27 and the basis for that disapproval. The financing order may

1 provide such additional provisions relating to the issuance  
2 advice letter process as the commission considers appropriate and  
3 as are not inconsistent with this section.

4 (4) (a) In performing the responsibilities of this section  
5 in connection with the issuance of a financing order, approving  
6 the petition, an order approving the petition subject to  
7 conditions, or an order rejecting the petition, the commission  
8 shall undertake due diligence as it deems appropriate prior to  
9 the issuance of the order regarding the petition pursuant to  
10 which the commission may request additional information from the  
11 electrical corporation and may engage one or more financial  
12 advisors, one or more consultants, and counsel as the commission  
13 deems necessary. Any financial advisor or advisors, counsel, and  
14 consultants engaged by the commission shall have a fiduciary duty  
15 with respect to the proposed issuance of securitized utility  
16 bonds solely to the commission. All expenses associated with  
17 such services shall be included as part of the financing costs of  
18 the securitized utility tariff bonds and shall be included in the  
19 securitized utility tariff charge.

20 (b) If an electrical corporation's petition for a financing  
21 order is denied or withdrawn, or for any reason securitized  
22 utility tariff bonds are not issued, any costs of retaining one  
23 or more financial advisors, one or more consultants, and counsel  
24 on behalf of the commission shall be paid by the petitioning  
25 electrical corporation and shall be eligible for full recovery,  
26 including carrying costs, if approved by the commission in the  
27 electrical corporation's future rates.

1       (5) At the request of an electrical corporation, the  
2 commission may commence a proceeding and issue a subsequent  
3 financing order that provides for refinancing, retiring, or  
4 refunding securitized utility tariff bonds issued pursuant to the  
5 original financing order if the commission finds that the  
6 subsequent financing order satisfies all of the criteria  
7 specified in this section for a financing order. Effective upon  
8 retirement of the refunded securitized utility tariff bonds and  
9 the issuance of new securitized utility tariff bonds, the  
10 commission shall adjust the related securitized utility tariff  
11 charges accordingly.

12       (6) (a) A financing order remains in effect and  
13 securitized utility tariff property under the financing order  
14 continues to exist until securitized utility tariff bonds issued  
15 pursuant to the financing order have been paid in full or  
16 defeased and, in each case, all commission-approved financing  
17 costs of such securitized utility tariff bonds have been  
18 recovered in full.

19       (b) A financing order issued to an electrical corporation  
20 remains in effect and unabated notwithstanding the  
21 reorganization, bankruptcy, or other insolvency proceedings,  
22 merger, or sale of the electrical corporation or its successors  
23 or assignees.

24       3. (1) The commission may not, in exercising its powers  
25 and carrying out its duties regarding any matter within its  
26 authority, consider the securitized utility tariff bonds issued  
27 pursuant to a financing order to be the debt of the electrical

1 corporation other than for federal and state income tax purposes,  
2 consider the securitized utility tariff charges paid under the  
3 financing order to be the revenue of the electrical corporation  
4 for any purpose, consider the securitized utility tariff costs or  
5 financing costs specified in the financing order to be the costs  
6 of the electrical corporation, nor may the commission determine  
7 any action taken by an electrical corporation which is consistent  
8 with the financing order to be unjust or unreasonable, and  
9 section 386.300 shall not apply to the issuance of securitized  
10 utility tariff bonds.

11 (2) Securitized utility tariff charges shall not be  
12 utilized or accounted for in determining the electrical  
13 corporation's average overall rate, as defined in section  
14 393.1655 and as used to determine the maximum retail rate impact  
15 limitations provided for by subsections 3 and 4 of section  
16 393.1655.

17 (3) No electrical corporation is required to file a  
18 petition for a financing order under this section or otherwise  
19 utilize this section. An electrical corporation's decision not  
20 to file a petition for a financing order under this section shall  
21 not be admissible in any commission proceeding nor shall it be  
22 otherwise utilized or relied on by the commission in any  
23 proceeding respecting the electrical corporation's rates or its  
24 accounting, including, without limitation, any general rate  
25 proceeding, fuel adjustment clause docket, or proceedings  
26 relating to accounting authority, whether initiated by the  
27 electrical corporation or otherwise. The commission may not

1 order or otherwise directly or indirectly require an electrical  
2 corporation to use securitized utility tariff bonds to recover  
3 securitized utility tariff costs or to finance any project,  
4 addition, plant, facility, extension, capital improvement,  
5 equipment, or any other expenditure.

6 (4) The commission may not refuse to allow an electrical  
7 corporation to recover securitized utility tariff costs in an  
8 otherwise permissible fashion, or refuse or condition  
9 authorization or approval of the issuance and sale by an  
10 electrical corporation of securities or the assumption by the  
11 electrical corporation of liabilities or obligations, because of  
12 the potential availability of securitized utility tariff bond  
13 financing.

14 (5) After the issuance of a financing order with or without  
15 conditions, the electrical corporation retains sole discretion  
16 regarding whether to cause the securitized utility tariff bonds  
17 to be issued, including the right to defer or postpone such sale,  
18 assignment, transfer, or issuance. Nothing shall prevent the  
19 electrical corporation from abandoning the issuance of  
20 securitized utility tariff bonds under the financing order by  
21 filing with the commission a statement of abandonment and the  
22 reasons therefor; provided, that the electrical corporation's  
23 abandonment decision shall not be deemed imprudent because of the  
24 potential availability of securitized utility tariff bond  
25 financing; and provided further, that an electrical corporation's  
26 decision to abandon issuance of such bonds may be raised by any  
27 party, including the commission, as a reason the commission



1 should not authorize, or should modify, the rate-making treatment  
2 proposed by the electrical corporation of the costs associated  
3 with the electric generating facility that was the subject of a  
4 petition under this section that would have been securitized as  
5 energy transition costs had such abandonment decision not been  
6 made, but only if the electrical corporation requests non-  
7 standard plant retirement treatment of such costs for rate-making  
8 purposes.

9 (6) The commission may not, directly or indirectly, utilize  
10 or consider the debt reflected by the securitized utility tariff  
11 bonds in establishing the electrical corporation's capital  
12 structure used to determine any regulatory matter, including but  
13 not limited to the electrical corporation's revenue requirement  
14 used to set its rates.

15 (7) The commission may not, directly or indirectly,  
16 consider the existence of securitized utility tariff bonds or the  
17 potential use of securitized utility tariff bond financing  
18 proceeds in determining the electrical corporation's authorized  
19 rate of return used to determine the electrical corporation's  
20 revenue requirement used to set its rates.

21 4. The electric bills of an electrical corporation that has  
22 obtained a financing order and caused securitized utility tariff  
23 bonds to be issued shall comply with the provisions of this  
24 subsection; however, the failure of an electrical corporation to  
25 comply with this subsection does not invalidate, impair, or  
26 affect any financing order, securitized utility tariff property,

1 securitized utility tariff charge, or securitized utility tariff  
2 bonds. The electrical corporation shall do the following:

3 (1) Explicitly reflect that a portion of the charges on  
4 such bill represents securitized utility tariff charges approved  
5 in a financing order issued to the electrical corporation and, if  
6 the securitized utility tariff property has been transferred to  
7 an assignee, shall include a statement to the effect that the  
8 assignee is the owner of the rights to securitized utility tariff  
9 charges and that the electrical corporation or other entity, if  
10 applicable, is acting as a collection agent or servicer for the  
11 assignee. The tariff applicable to customers shall indicate the  
12 securitized utility tariff charge and the ownership of the  
13 charge;

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

17 5. (1) (a) All securitized utility tariff property that  
18 is specified in a financing order constitutes an existing,  
19 present intangible property right or interest therein,  
20 notwithstanding that the imposition and collection of securitized  
21 utility tariff charges depends on the electrical corporation, to  
22 which the financing order is issued, performing its servicing  
23 functions relating to the collection of securitized utility  
24 tariff charges and on future electricity consumption. The  
25 property exists:

1           a. Regardless of whether or not the revenues or proceeds  
2 arising from the property have been billed, have accrued, or have  
3 been collected; and

4           b. Notwithstanding the fact that the value or amount of the  
5 property is dependent on the future provision of service to  
6 customers by the electrical corporation or its successors or  
7 assignees and the future consumption of electricity by customers.

8           (b) Securitized utility tariff property specified in a  
9 financing order exists until securitized utility tariff bonds  
10 issued pursuant to the financing order are paid in full and all  
11 financing costs and other costs of such securitized utility  
12 tariff bonds have been recovered in full.

13           (c) All or any portion of securitized utility tariff  
14 property specified in a financing order issued to an electrical  
15 corporation may be transferred, sold, conveyed, or assigned to a  
16 successor or assignee that is wholly owned, directly or  
17 indirectly, by the electrical corporation and created for the  
18 limited purpose of acquiring, owning, or administering  
19 securitized utility tariff property or issuing securitized  
20 utility tariff bonds under the financing order. All or any  
21 portion of securitized utility tariff property may be pledged to  
22 secure securitized utility tariff bonds issued pursuant to the  
23 financing order, amounts payable to financing parties and to  
24 counterparties under any ancillary agreements, and other  
25 financing costs. Any transfer, sale, conveyance, assignment,  
26 grant of a security interest in or pledge of securitized utility  
27 tariff property by an electrical corporation, or an affiliate of

1 the electrical corporation, to an assignee, to the extent  
2 previously authorized in a financing order, does not require the  
3 prior consent and approval of the commission.

4 (d) If an electrical corporation defaults on any required  
5 remittance of securitized utility tariff charges arising from  
6 securitized utility tariff property specified in a financing  
7 order, a court, upon application by an interested party, and  
8 without limiting any other remedies available to the applying  
9 party, shall order the sequestration and payment of the revenues  
10 arising from the securitized utility tariff property to the  
11 financing parties or their assignees. Any such financing order  
12 remains in full force and effect notwithstanding any  
13 reorganization, bankruptcy, or other insolvency proceedings with  
14 respect to the electrical corporation or its successors or  
15 assignees.

16 (e) The interest of a transferee, purchaser, acquirer,  
17 assignee, or pledgee in securitized utility tariff property  
18 specified in a financing order issued to an electrical  
19 corporation, and in the revenue and collections arising from that  
20 property, is not subject to setoff, counterclaim, surcharge, or  
21 defense by the electrical corporation or any other person or in  
22 connection with the reorganization, bankruptcy, or other  
23 insolvency of the electrical corporation or any other entity.

24 (f) Any successor to an electrical corporation, whether  
25 pursuant to any reorganization, bankruptcy, or other insolvency  
26 proceeding or whether pursuant to any merger or acquisition,  
27 sale, or other business combination, or transfer by operation of

1 law, as a result of electrical corporation restructuring or  
2 otherwise, shall perform and satisfy all obligations of, and have  
3 the same rights under a financing order as, the electrical  
4 corporation under the financing order in the same manner and to  
5 the same extent as the electrical corporation, including  
6 collecting and paying to the person entitled to receive the  
7 revenues, collections, payments, or proceeds of the securitized  
8 utility tariff property. Nothing in this section is intended to  
9 limit or impair any authority of the commission concerning the  
10 transfer or succession of interests of public utilities.

11 (g) Securitized utility tariff bonds shall be nonrecourse  
12 to the credit or any assets of the electrical corporation other  
13 than the securitized utility tariff property as specified in the  
14 financing order and any rights under any ancillary agreement.

15 (2) (a) The creation, perfection, priority, and  
16 enforcement of any security interest in securitized utility  
17 tariff property to secure the repayment of the principal and  
18 interest and other amounts payable in respect of securitized  
19 utility tariff bonds, amounts payable under any ancillary  
20 agreement and other financing costs are governed by this section  
21 and not by the provisions of the code, except as otherwise  
22 provided in this section.

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

25 a. The financing order is issued;

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

1           c. The debtor has rights in such securitized utility tariff  
2 property or the power to transfer rights in such securitized  
3 utility tariff property; or

4           d. Value is received for the securitized utility tariff  
5 property.

6  
7 The description of securitized utility tariff property in a  
8 security agreement is sufficient if the description refers to  
9 this section and the financing order creating the securitized  
10 utility tariff property. A security interest shall attach as  
11 provided in this paragraph without any physical delivery of  
12 collateral or other act.

13           (c) Upon the filing of a financing statement with the  
14 office of the secretary of state as provided in this section, a  
15 security interest in securitized utility tariff property shall be  
16 perfected against all parties having claims of any kind in tort,  
17 contract, or otherwise against the person granting the security  
18 interest, and regardless of whether the parties have notice of  
19 the security interest. Without limiting the foregoing, upon such  
20 filing a security interest in securitized utility tariff property  
21 shall be perfected against all claims of lien creditors, and  
22 shall have priority over all competing security interests and  
23 other claims other than any security interest previously  
24 perfected in accordance with this section.

25           (d) The priority of a security interest in securitized  
26 utility tariff property is not affected by the commingling of  
27 securitized utility tariff charges with other amounts. Any

1 pledgee or secured party shall have a perfected security interest  
2 in the amount of all securitized utility tariff charges that are  
3 deposited in any cash or deposit account of the qualifying  
4 electrical corporation in which securitized utility tariff  
5 charges have been commingled with other funds and any other  
6 security interest that may apply to those funds shall be  
7 terminated when they are transferred to a segregated account for  
8 the assignee or a financing party.

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

13 (f) If a default occurs under the securitized utility  
14 tariff bonds that are secured by a security interest in  
15 securitized utility tariff property, the financing parties or  
16 their representatives may exercise the rights and remedies  
17 available to a secured party under the code, including the rights  
18 and remedies available under part 6 of article 9 of the code.  
19 The commission may also order amounts arising from securitized  
20 utility tariff charges be transferred to a separate account for  
21 the financing parties' benefit, to which their lien and security  
22 interest shall apply. On application by or on behalf of the  
23 financing parties, the circuit court for the county or city in  
24 which the electrical corporation's headquarters is located shall  
25 order the sequestration and payment to them of revenues arising  
26 from the securitized utility tariff charges.

1           (3) (a) Any sale, assignment, or other transfer of  
2 securitized utility tariff property shall be an absolute transfer  
3 and true sale of, and not a pledge of or secured transaction  
4 relating to, the seller's right, title, and interest in, to, and  
5 under the securitized utility tariff property if the documents  
6 governing the transaction expressly state that the transaction is  
7 a sale or other absolute transfer other than for federal and  
8 state income tax purposes. For all purposes other than federal  
9 and state income tax purposes, the parties' characterization of a  
10 transaction as a sale of an interest in securitized utility  
11 tariff property shall be conclusive that the transaction is a  
12 true sale and that ownership has passed to the party  
13 characterized as the purchaser, regardless of whether the  
14 purchaser has possession of any documents evidencing or  
15 pertaining to the interest. A sale or similar outright transfer  
16 of an interest in securitized utility tariff property may occur  
17 only when all of the following have occurred:

18           a. The financing order creating the securitized utility  
19 tariff property has become effective;

20           b. The documents evidencing the transfer of securitized  
21 utility tariff property have been executed by the assignor and  
22 delivered to the assignee; and

23           c. Value is received for the securitized utility tariff  
24 property.

25  
26 After such a transaction, the securitized utility tariff property  
27 is not subject to any claims of the transferor or the



1 transferor's creditors, other than creditors holding a prior  
2 security interest in the securitized utility tariff property  
3 perfected in accordance with this section.

4 (b) The characterization of the sale, assignment, or other  
5 transfer as an absolute transfer and true sale and the  
6 corresponding characterization of the property interest of the  
7 purchaser, shall not be affected or impaired by the occurrence of  
8 any of the following factors:

9 a. Commingling of securitized utility tariff charges with  
10 other amounts;

11 b. The retention by the seller of (i) a partial or residual  
12 interest, including an equity interest, in the securitized  
13 utility tariff property, whether direct or indirect, or whether  
14 subordinate or otherwise, or (ii) the right to recover costs  
15 associated with taxes, franchise fees, or license fees imposed on  
16 the collection of securitized utility tariff charges;

17 c. Any recourse that the purchaser may have against the  
18 seller;

19 d. Any indemnification rights, obligations, or repurchase  
20 rights made or provided by the seller;

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

23 f. The transferor acting as the servicer of the securitized  
24 utility tariff charges or the existence of any contract that  
25 authorizes or requires the electrical corporation, to the extent  
26 that any interest in securitized utility tariff property is sold  
27 or assigned, to contract with the assignee or any financing party

1 that it will continue to operate its system to provide service to  
2 its customers, will collect amounts in respect of the securitized  
3 utility tariff charges for the benefit and account of such  
4 assignee or financing party, and will account for and remit such  
5 amounts to or for the account of such assignee or financing  
6 party;

7 g. The treatment of the sale, conveyance, assignment, or  
8 other transfer for tax, financial reporting, or other purposes;

9 h. The granting or providing to bondholders a preferred  
10 right to the securitized utility tariff property or credit  
11 enhancement by the electrical corporation or its affiliates with  
12 respect to such securitized utility tariff bonds;

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

15 (c) Any right that an electrical corporation has in the  
16 securitized utility tariff property before its pledge, sale, or  
17 transfer or any other right created under this section or created  
18 in the financing order and assignable under this section or  
19 assignable pursuant to a financing order is property in the form  
20 of a contract right or a chose in action. Transfer of an  
21 interest in securitized utility tariff property to an assignee is  
22 enforceable only upon the later of:

23 a. The issuance of a financing order;

24 b. The assignor having rights in such securitized utility  
25 tariff property or the power to transfer rights in such  
26 securitized utility tariff property to an assignee;

1           c. The execution and delivery by the assignor of transfer  
2 documents in connection with the issuance of securitized utility  
3 tariff bonds; and

4           d. The receipt of value for the securitized utility tariff  
5 property.

6  
7 An enforceable transfer of an interest in securitized utility  
8 tariff property to an assignee is perfected against all third  
9 parties, including subsequent judicial or other lien creditors,  
10 when a notice of that transfer has been given by the filing of a  
11 financing statement in accordance with subsection 7 of this  
12 section. The transfer is perfected against third parties as of  
13 the date of filing.

14           (d) The priority of a transfer perfected under this section  
15 is not impaired by any later modification of the financing order  
16 or securitized utility tariff property or by the commingling of  
17 funds arising from securitized utility tariff property with other  
18 funds. Any other security interest that may apply to those  
19 funds, other than a security interest perfected under this  
20 section, is terminated when they are transferred to a segregated  
21 account for the assignee or a financing party. If securitized  
22 utility tariff property has been transferred to an assignee or  
23 financing party, any proceeds of that property shall be held in  
24 trust for the assignee or financing party.

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

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

5           b. A perfected interest or right of an assignee has  
6 priority over a conflicting unperfected interest or right of an  
7 assignee;

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

11           6. The description of securitized utility tariff property  
12 being transferred to an assignee in any sale agreement, purchase  
13 agreement, or other transfer agreement, granted or pledged to a  
14 pledgee in any security agreement, pledge agreement, or other  
15 security document, or indicated in any financing statement is  
16 only sufficient if such description or indication refers to the  
17 financing order that created the securitized utility tariff  
18 property and states that the agreement or financing statement  
19 covers all or part of the property described in the financing  
20 order. This section applies to all purported transfers of, and  
21 all purported grants or liens or security interests in,  
22 securitized utility tariff property, regardless of whether the  
23 related sale agreement, purchase agreement, other transfer  
24 agreement, security agreement, pledge agreement, or other  
25 security document was entered into, or any financing statement  
26 was filed.

1           7. The secretary of state shall maintain any financing  
2 statement filed to perfect a sale or other transfer of  
3 securitized utility tariff property and any security interest in  
4 securitized utility tariff property under this section in the  
5 same manner that the secretary of state maintains financing  
6 statements filed under the code to perfect a security interest in  
7 collateral owned by a transmitting utility. Except as otherwise  
8 provided in this section, all financing statements filed pursuant  
9 to this section shall be governed by the provisions regarding  
10 financing statements and the filing thereof under the code,  
11 including part 5 of article 9 of the code. A security interest  
12 in securitized utility tariff property may be perfected only by  
13 the filing of a financing statement in accordance with this  
14 section, and no other method of perfection shall be effective.  
15 Notwithstanding any provision of the code to the contrary, a  
16 financing statement filed pursuant to this section is effective  
17 until a termination statement is filed under the code, and no  
18 continuation statement need be filed to maintain its  
19 effectiveness. A financing statement filed pursuant to this  
20 section may indicate that the debtor is a transmitting utility,  
21 and without regard to whether the debtor is an electrical  
22 corporation, an assignee or otherwise qualifies as a transmitting  
23 utility under the code, but the failure to make such indication  
24 shall not impair the duration and effectiveness of the financing  
25 statement.

26           8. The law governing the validity, enforceability,  
27 attachment, perfection, priority, and exercise of remedies with

1 respect to the transfer of an interest or right or the pledge or  
2 creation of a security interest in any securitized utility tariff  
3 property shall be the laws of this state.

4 9. Neither the state nor its political subdivisions are  
5 liable on any securitized utility tariff bonds, and the bonds are  
6 not a debt or a general obligation of the state or any of its  
7 political subdivisions, agencies, or instrumentalities, nor are  
8 they special obligations or indebtedness of the state or any  
9 agency or political subdivision. An issue of securitized utility  
10 tariff bonds does not, directly, indirectly, or contingently,  
11 obligate the state or any agency, political subdivision, or  
12 instrumentality of the state to levy any tax or make any  
13 appropriation for payment of the securitized utility tariff  
14 bonds, other than in their capacity as consumers of electricity.  
15 All securitized utility tariff bonds shall contain on the face  
16 thereof a statement to the following effect: "Neither the full  
17 faith and credit nor the taxing power of the state of Missouri is  
18 pledged to the payment of the principal of, or interest on, this  
19 bond."

20 10. All of the following entities may legally invest any  
21 sinking funds, moneys, or other funds in securitized utility  
22 tariff bonds:

23 (1) Subject to applicable statutory restrictions on state  
24 or local investment authority, the state, units of local  
25 government, political subdivisions, public bodies, and public  
26 officers, except for members of the commission, the commission's

1 technical advisory and other staff, or employees of the office of  
2 the public counsel;

3 (2) Banks and bankers, savings and loan associations,  
4 credit unions, trust companies, savings banks and institutions,  
5 investment companies, insurance companies, insurance  
6 associations, and other persons carrying on a banking or  
7 insurance business;

8 (3) Personal representatives, guardians, trustees, and  
9 other fiduciaries;

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

12 11. (1) The state and its agencies, including the  
13 commission, pledge and agree with bondholders, the owners of the  
14 securitized utility tariff property, and other financing parties  
15 that the state and its agencies will not take any action listed  
16 in this subdivision. This subdivision does not preclude  
17 limitation or alteration if full compensation is made by law for  
18 the full protection of the securitized utility tariff charges  
19 collected pursuant to a financing order and of the bondholders  
20 and any assignee or financing party entering into a contract with  
21 the electrical corporation. The prohibited actions are as  
22 follows:

23 (a) Alter the provisions of this section, which authorize  
24 the commission to create an irrevocable contract right or chose  
25 in action by the issuance of a financing order, to create  
26 securitized utility tariff property, and make the securitized  
27 utility tariff charges imposed by a financing order irrevocable,

1 binding, or nonbypassable charges for all existing and future  
2 retail customers of the electrical corporation except its  
3 existing special contract customers;

4 (b) Take or permit any action that impairs or would impair  
5 the value of securitized utility tariff property or the security  
6 for the securitized utility tariff bonds or revises the  
7 securitized utility tariff costs for which recovery is  
8 authorized;

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

11 (d) Except for changes made pursuant to the formula-based  
12 true-up mechanism authorized under this section, reduce, alter,  
13 or impair securitized utility tariff charges that are to be  
14 imposed, billed, charged, collected, and remitted for the benefit  
15 of the bondholders, any assignee, and any other financing parties  
16 until any and all principal, interest, premium, financing costs  
17 and other fees, expenses, or charges incurred, and any contracts  
18 to be performed, in connection with the related securitized  
19 utility tariff bonds have been paid and performed in full.

20 (2) Any person or entity that issues securitized utility  
21 tariff bonds may include the language specified in this  
22 subsection in the securitized utility tariff bonds and related  
23 documentation.

24 12. An assignee or financing party is not an electrical  
25 corporation or person providing electric service by virtue of  
26 engaging in the transactions described in this section.



1           13. If there is a conflict between this section and any  
2 other law regarding the attachment, assignment, or perfection, or  
3 the effect of perfection, or priority of, assignment or transfer  
4 of, or security interest in securitized utility tariff property,  
5 this section shall govern.

6           14. If any provision of this section is held invalid or is  
7 invalidated, superseded, replaced, repealed, or expires for any  
8 reason, that occurrence does not affect the validity of any  
9 action allowed under this section which is taken by an electrical  
10 corporation, an assignee, a financing party, a collection agent,  
11 or a party to an ancillary agreement; and any such action remains  
12 in full force and effect with respect to all securitized utility  
13 tariff bonds issued or authorized in a financing order issued  
14 under this section before the date that such provision is held  
15 invalid or is invalidated, superseded, replaced, or repealed, or  
16 expires for any reason.

17           393.1705. 1. For purposes of this section, the term  
18 "replacement resources" shall mean:

19           (1) Renewable generation facilities which produce electric  
20 energy from wind, solar thermal sources, photovoltaic cells and  
21 panels, dedicated crops grown for energy production, cellulosic  
22 agricultural residues, plant residues, methane from landfills,  
23 from agricultural operations, or from wastewater treatment,  
24 thermal depolymerization or pyrolysis for converting waste  
25 material to energy, clean and untreated wood such as pallets,  
26 hydropower, not including pumped storage, that does not require a  
27 new diversion or impoundment of water and that has a nameplate

1 rating of ten megawatts or less, and fuel cells using hydrogen  
2 produced by one of the above-named replacement sources;

3 (2) Generation facilities which produce electric energy  
4 from natural gas that enable the electrical corporation to:

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

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

10 (c) Serve the objectives of both paragraphs (a) and (b) of  
11 this subdivision;

12 (3) Energy storage facilities that enable the electrical  
13 corporation to:

14 (a) Provide electric energy when renewable generation  
15 facilities are not generating electric energy in sufficient  
16 quantities to meet the needs of the electrical corporation's  
17 system;

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

20 (c) Serve the objectives of both paragraphs (a) and  
21 (b) of this subdivision; and

22 (4) Transmission facilities that enable the delivery of  
23 electric energy from renewable generation facilities or energy  
24 storage facilities, including but not limited to,  
25 interconnection, network upgrades, voltage and reactive power  
26 support, and transmission facilities needed to maintain

1 reliability as a result of the retirement of generation  
2 facilities.

3 2. If requested by an electrical corporation in a petition  
4 filed concurrently with a petition filed under subsection 2 of  
5 section 393.1700 to recover securitized utility tariff costs and  
6 notwithstanding any other provision of chapter 386 or 393 to the  
7 contrary, including section 393.170 which section shall not apply  
8 to the construction of replacement resources as defined in  
9 subsection 1 of this section:

10 (1) Except for electric generating facilities retired or  
11 abandoned prior to August 28, 2021, unless the commission issues  
12 an order rejecting a petition for a financing order filed under  
13 the provisions of section 393.1700 that was accompanied by a  
14 petition for approval of investment in replacement resources  
15 filed under the provisions of this section, the commission shall  
16 approve investment in replacement resources by the electrical  
17 corporation of an amount that is approximately equal to the  
18 undepreciated investment in the electric generating facilities  
19 covered by such petition to acquire or build an existing or new  
20 replacement resource to replace the retired or abandoned or to be  
21 retired or abandoned unit. There is no requirement that the  
22 replacement resource's capacity or energy production match the  
23 energy or capacity production of the retired or abandoned unit.  
24 Such approval shall constitute an affirmative and binding  
25 determination by the commission, to be applied in all subsequent  
26 proceedings respecting the rates of the electrical corporation,  
27 that such investment is prudent and reasonable, that the

1 replacement resource is necessary for the electrical  
2 corporation's provision of electric service to its customers, and  
3 that such investment shall be reflected in the revenue  
4 requirement used to set the electrical corporation's base rates,  
5 subject only to the commission's authority to determine that the  
6 electrical corporation did not manage or execute the project in a  
7 reasonable and prudent manner in some respect and its authority  
8 to disallow for ratemaking purposes only that portion of the  
9 investment that would not have been incurred had the unreasonable  
10 or imprudent management or execution of the project not occurred;  
11 and

12 (2) The commission shall create a deferral mechanism by  
13 which the electrical corporation shall defer, to a regulatory  
14 asset or regulatory liability as appropriate, the changes in the  
15 electrical corporation's revenue requirement used to last set its  
16 base rates as specified in this subdivision. Such changes shall  
17 be deferred during the period starting on the date of retirement  
18 or abandonment of the subject unit and ending when the base rates  
19 of the electrical corporation that is the subject of the petition  
20 are changed as the result of a general rate proceeding where the  
21 rate base cutoff date in that general rate proceeding occurs on  
22 or after the retirement or abandonment. For purposes of this  
23 subdivision, the changes in the electrical corporation's revenue  
24 requirement that shall be deferred shall only consist of:

25 (a) Changes in depreciation expense associated with the  
26 retired or abandoned unit;

1           (b) Changes in labor and benefit costs for employees or  
2 contractors no longer employed or retained by the electrical  
3 corporation who formerly worked at the retired or abandoned unit,  
4 net of severance and relocation costs of the electrical  
5 corporation paid to such employees or contractors;

6           (c) Changes in nonlabor, nonfuel operations, and  
7 maintenance costs caused by the retirement or abandonment of the  
8 unit;

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

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

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

20           (g) Nonlabor, nonfuel operations, and maintenance costs of  
21 the replacement resources; and

22           (h) The return on the replacement resources once they are  
23 recorded to plant-in-service on the electrical corporation's  
24 books at the electrical corporation's weighted average cost of  
25 capital, plus applicable federal, state, and local income or  
26 excise taxes, used to establish the electrical corporation's  
27 revenue requirement last used to set its base rates.

1 The base against which changes under paragraphs (a), (b), and (c)  
2 of this subdivision shall be the values of each such item used to  
3 set the electrical corporation's base electric rates in its last  
4 general rate proceeding concluded prior to the time the deferrals  
5 are made, provided, if the docketed record in such general rate  
6 proceeding does not specify one or more necessary revenue  
7 requirement parameters to establish the base for paragraphs (a)  
8 to (c) of this subdivision because of a "black box" settlement or  
9 otherwise, the commission shall, in the docket created by a  
10 petition filed under this section and based on the docketed  
11 record in such prior general rate proceeding, establish the  
12 missing parameters, which shall then be used to accomplish the  
13 deferrals. The base with respect to paragraphs (e), (f), and (g)  
14 of this subdivision shall be zero. Notwithstanding the foregoing  
15 provisions of this subdivision, deferrals created by this  
16 subdivision shall cease on the effective date of rates from a  
17 base rate case that shall be filed no later than one year after  
18 the subject electric generating unit was retired or abandoned.  
19 For purposes of this subdivision, the return in paragraphs (d)  
20 and (h) shall equal the weighted average cost of capital used to  
21 set the electrical corporation's base electrical rates in its  
22 last general rate proceeding concluded prior to the time the  
23 deferrals are made, provided, if the docketed record in such  
24 general rate proceeding does not specify one or more necessary  
25 revenue requirement parameters to establish the base for an item  
26 because of a "black box" settlement or otherwise, the commission  
27 shall, in the docket created by a petition filed under this

1 section and based on the docketed record in such general rate  
2 proceeding, establish the missing parameters, which shall then be  
3 used to accomplish the deferrals.

4 (3) The commission shall also create a deferral mechanism  
5 by which the electrical corporation shall defer to a regulatory  
6 asset the changes in the electrical corporation's revenue  
7 requirement last used to set its base rates as specified in this  
8 subdivision. Such changes shall be deferred during the period  
9 beginning on the date deferrals cease under subdivision (2) of  
10 this subsection and ending when the electrical corporation's base  
11 rates are next changed as a result of a general rate proceeding.  
12 For purposes of this subdivision, such changes in the electrical  
13 corporation's revenue requirement that shall be deferred shall  
14 only consist of:

15 (a) Return on the replacement resources once they go into  
16 service on the electrical corporation's books at the electrical  
17 corporation's weighted average cost of capital, plus applicable  
18 federal, state, and local income or excise taxes, used to  
19 establish the electrical corporation's revenue requirement last  
20 used to set its base rates;

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

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

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

1 Notwithstanding the foregoing provisions of this subdivision,  
2 deferrals to the regulatory asset created by this subdivision  
3 shall cease at the earlier of the date the electrical  
4 corporation's base rates are first changed after the replacement  
5 resource is recorded to plant in service on the electrical  
6 corporation's books where the rate base cutoff date in that  
7 general rate proceeding occurred on or after the retirement or  
8 abandonment, or the effective date of rates from a base rate case  
9 that shall be filed no later than one year after the unit was  
10 retired or abandoned. If there is more than one replacement  
11 resource for the retired or abandoned plant and if one or more  
12 such replacement resource is placed in service prior to the rate  
13 base cutoff date in the general rate proceeding described in  
14 subdivision (2) of this subsection, the deferrals called for  
15 under this subdivision shall be reduced as needed to reflect that  
16 event. The base with respect to paragraphs (b) and (c) of this  
17 subdivision shall be zero. For purposes of this subdivision, the  
18 return in paragraph (a) shall equal the weighted average cost of  
19 capital used to set the electrical corporation's base electric  
20 rates in its last general rate proceeding concluded prior to the  
21 time the deferrals are made, provided, if the docketed record in  
22 such general rate proceeding does not specify one or more  
23 necessary revenue requirement parameters to establish the base  
24 for an item because of a "black box" settlement or otherwise, the  
25 commission shall, in the docket created by a petition filed under  
26 this section and based on the docketed record in such prior



1 general rate proceeding, establish the missing parameters, which  
2 shall then be used to accomplish the deferrals.

3 (4) Notwithstanding the provisions of section 393.1400 to  
4 the contrary, a replacement resource shall not constitute  
5 "qualifying electric plant" for purposes of section 393.1400, nor  
6 shall it constitute a renewable energy resource under section  
7 393.1030, during the period when a deferral is occurring under  
8 subdivision (2) or (3) of this subsection. In addition, and  
9 notwithstanding the provisions of section 393.1400 to the  
10 contrary, deferrals required by this section relating to the  
11 electrical corporation's undepreciated investment in the retired  
12 or abandoned unit shall not constitute a change in accumulated  
13 depreciation when determining the return deferred on qualifying  
14 electric plant under section 393.1400.

15 (5) Parts of regulatory asset or liability balances created  
16 under this section that are not yet being recovered or returned  
17 through rates shall include carrying costs at the electrical  
18 corporation's weighted average cost of capital last used to set  
19 its base electric service rates or, if such cost of capital was  
20 not specified for the revenue requirement last used to set such  
21 electric service rates at the weighted average cost of capital  
22 determined by the commission under subdivision (3) of this  
23 subsection, in each case plus applicable federal, state, and  
24 local income or excise taxes. All regulatory asset or liability  
25 balances from deferrals under this subsection shall be recovered  
26 in base rates over a period equal to the remaining useful life of  
27 the replacement resource.

1       (6) In each general rate proceeding concluded after a  
2 deferral commences under subdivision (2) or (3) of this  
3 subsection, the regulatory asset or liability balances arising  
4 from such deferrals, as of the rate base cutoff date, shall be  
5 included in the electrical corporation's rate base without any  
6 offset, reduction, or adjustment based upon consideration of any  
7 other factor, other than to reflect any prudence disallowances  
8 ordered by the commission, with the regulatory asset balances  
9 arising from such deferrals that occur after the rate base cutoff  
10 date to be included in rate base in the next general rate  
11 proceeding. The provisions of this section shall not be  
12 construed to affect existing law respecting burdens of production  
13 and persuasion in general rate proceedings.

14       3. Proceedings on a petition submitted pursuant to this  
15 section begin with the filing of a petition by an electrical  
16 corporation under this section that is filed concurrently with a  
17 petition submitted under section 393.1700, and shall be disposed  
18 of in accordance with the requirements of chapters 386 and 393  
19 and the rules of the commission, except as follows:

20       (1) The commission shall establish a procedural schedule  
21 that permits a commission decision no later than two hundred  
22 fifteen days after the date the petition is filed. Such  
23 procedural schedule adopted by the commission in connection with  
24 a petition filed under this section shall contain the same  
25 milestones and requirements as the procedural schedule adopted in  
26 a proceeding seeking approval of a financing order under section  
27 393.1700 and shall run concurrently therewith;

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

7       393.1715. 1. An electrical corporation may petition the  
8 commission for a determination of the ratemaking principles and  
9 treatment, as proposed by the electrical corporation, that will  
10 apply to the reflection in base rates of the electrical  
11 corporation's capital and noncapital costs associated with the  
12 proposed retirement of one or more of the electrical  
13 corporation's generating facilities. Without limiting the  
14 foregoing, such principles and treatment may also establish the  
15 retirement date and useful life parameters used to set  
16 depreciation rates for such facilities. Except as provided for  
17 in subsection 4 of this section, the ratemaking principles and  
18 treatment approved by the commission under this section for such  
19 facilities shall apply to the determination of the revenue  
20 requirement in each of the electrical corporation's post-  
21 determination general rate proceedings until such time as such  
22 facility is fully depreciated on the electrical corporation's  
23 books.

24       2. If the commission fails to issue a determination within  
25 two hundred fifteen days that a petition for determination of  
26 ratemaking principles and treatment is filed, the ratemaking  
27 principles and treatment proposed by the petitioning electrical

1 corporation shall be deemed to have been approved by the  
2 commission.

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

7 4. (1) An electrical corporation with ratemaking  
8 principles and treatment approved by the commission, or deemed to  
9 have been approved under subsection 2 of this section, shall  
10 monitor the major factors and circumstances relating to the  
11 facility to which such principles and treatment apply. Such  
12 factors and circumstances include, but are not limited to:

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

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

15 (c) A significant change in federal utility laws or  
16 regulations or a significant change in generally accepted  
17 accounting principles;

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

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

24 (f) A significant change in fuel prices and wholesale  
25 electric market conditions;

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

1           (h) A significant change in the price of emission  
2 allowances;

3           (i) A significant change in the electrical corporation's  
4 load forecast;

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

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

8           (l) A significant change in federal or state environmental  
9 laws.

10          (2) If the electrical corporation determines that one or  
11 more major factor or circumstance has changed in a manner that  
12 warrants a change in the approved ratemaking principles and  
13 treatment, then it shall file a notice in the docket in which the  
14 approved ratemaking principles and treatment were established  
15 within forty-five days of any such determination. In its  
16 notification, the electrical corporation shall:

17           (a) Explain and specify the changes it contends are  
18 appropriate to the ratemaking principles and treatment and the  
19 reasons for the proposed changes;

20           (b) Provide a description of the alternatives that it  
21 evaluated and the process that it went through in developing its  
22 proposed changes; and

23           (c) Provide detailed workpapers that support the evaluation  
24 and the process whereby proposed changes were developed.

25           (3) If a party has concerns regarding the proposed changes,  
26 that party shall file a notice of its concerns within thirty days  
27 of the electrical corporation's filing. If the parties agree on

1 a resolution of the concerns, the agreement shall be submitted to  
2 the commission for approval. If the parties do not reach  
3 agreement on changes to the ratemaking principles and treatment  
4 within ninety days of the date the electrical corporation filed  
5 its notice, whether the previously approved ratemaking and  
6 treatment will be changed shall be determined by the commission.  
7 If a party to the docket in which the approved ratemaking  
8 principles and treatment were approved believes that one or more  
9 major factor or circumstance has changed in a manner that  
10 warrants a change in the approved ratemaking principles and  
11 treatment and if the electrical corporation does not agree the  
12 principles and treatment should be changed, such party shall file  
13 a notice in the docket in which the approved ratemaking  
14 principles and treatment were established within forty-five days  
15 of any such determination. In its notification, such party  
16 shall:

17 (a) Explain and specify the changes it contends are  
18 appropriate to the ratemaking principles and treatment and the  
19 reasons for the proposed changes;

20 (b) Provide a description of the alternatives that it  
21 evaluated and the process that it went through in developing its  
22 proposed changes; and

23 (c) Provide detailed workpapers that support the evaluation  
24 and the process whereby proposed changes were developed.

25 (4) If a party, including the electrical corporation, has  
26 concerns regarding the proposed changes, that party shall file a  
27 notice of its concerns within thirty days of the other party's

1 filing. If the parties do not reach agreement on changes to the  
2 ratemaking principles and treatment within ninety days of the  
3 date the notice was filed, whether the previously approved  
4 ratemaking and treatment will be changed shall be determined by  
5 the commission.

6 5. A determination of ratemaking principles and treatment  
7 under this section does not preclude an electrical corporation  
8 from also petitioning the commission under either or both of  
9 sections 393.1700 and 393.1705, provided that any costs to which  
10 such ratemaking principles and treatment would have applied in  
11 the electrical corporation's general rate proceedings which  
12 become funded by securitized utility tariff bond proceeds from a  
13 securitized utility tariff bond issued under section 393.1700  
14 shall not thereafter be reflected in the electrical corporation's  
15 base rates.

16 6. If determined by the commission to be just, reasonable,  
17 and necessary for the provision of safe and adequate service, the  
18 electrical corporation may be permitted to retain coal-fired  
19 generating assets in rate base and recover costs associated with  
20 operating the coal-fired assets that remain in service to provide  
21 greater certainty that generating capacity will be available to  
22 provide essential service to customers, including during extreme  
23 weather events, and the commission shall not disallow any portion  
24 of such cost recovery on the basis that such coal-fired  
25 generating assets operate at a low capacity factor, or are off-  
26 line and providing capacity only, during normal operating  
27 conditions.

1           7. The commission may promulgate rules necessary to  
2 implement the provisions of sections 393.1700 to 393.1715. Any  
3 rule or portion of a rule, as that term is defined in section  
4 536.010, that is created under the authority delegated in this  
5 section shall become effective only if it complies with and is  
6 subject to all of the provisions of chapter 536 and, if  
7 applicable, section 536.028. This section and chapter 536 are  
8 nonseverable and if any of the powers vested with the general  
9 assembly pursuant to chapter 536 to review, to delay the  
10 effective date, or to disapprove and annul a rule are  
11 subsequently held unconstitutional, then the grant of rulemaking  
12 authority and any rule proposed or adopted after August 28, 2021,  
13 shall be invalid and void.

14           394.020. In this chapter, unless the context otherwise  
15 requires,

16           (1) "Member" means each incorporator of a cooperative and  
17 each person admitted to and retaining membership therein, and  
18 shall include a husband and wife admitted to joint membership;

19           (2) "Person" includes any natural person, firm,  
20 association, corporation, business trust, partnership, federal  
21 agency, state or political subdivision or agency thereof, or any  
22 body politic; and

23           (3) "Rural area" shall be deemed to mean any area of the  
24 United States not included within the boundaries of any city,  
25 town or village having a population in excess of [~~fifteen~~  
26 sixteen hundred inhabitants, and such term shall be deemed to  
27 include both the farm and nonfarm population thereof. The number



1 of inhabitants specified in this subsection shall be increased by  
2 six percent every ten years after each decennial census beginning  
3 in 2030.

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

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

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

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

26 5. Except as herein otherwise provided, written or printed  
27 notice stating the time and place of each meeting of members and,

1 in the case of a special meeting, the purpose or purposes for  
2 which the meeting is called, shall be given to each member,  
3 either personally or by mail, not less than ten nor more than  
4 twenty-five days before the date of the meeting.

5 6. Two percent of the first two thousand members and one  
6 percent of the remaining members, present in person, or if the  
7 bylaws so provide, participating electronically or by mail, shall  
8 constitute a quorum for the transaction of business at all  
9 meetings of the members, unless the bylaws prescribe the presence  
10 of a greater percentage of the members for a quorum. If less  
11 than a quorum is present at any meeting, a majority of those  
12 present in person may adjourn the meeting from time to time  
13 without further notice.

14 7. Each member shall be entitled to one vote on each matter  
15 submitted to a vote at a meeting. Voting shall be in person,  
16 but, if the bylaws so provide, may also be by proxy, by  
17 electronic means, by mail, or any combination thereof. If the  
18 bylaws provide for voting by proxy, by electronic means, or by  
19 mail, they shall also prescribe the conditions under which proxy,  
20 electronic, or mail voting shall be exercised. In any event, no  
21 person shall vote as proxy for more than two members at any  
22 meeting of the members.

23 8. Notwithstanding the provisions of subsections 2 and 7 of  
24 this section, the board of directors shall have the power to set  
25 the time and place of the annual meeting and also to provide for  
26 voting by proxy, electronic means, by mail, or any combination  
27 thereof, and to prescribe the conditions under which such voting

1 shall be exercised. The meeting requirement provided in this  
2 section may be satisfied through virtual means. The provisions  
3 of this subsection shall expire on August 28, 2022.

4 394.315. 1. As used in this section, the following terms  
5 mean:

6 (1) "Permanent service", electrical service provided  
7 through facilities which have been permanently installed on a  
8 structure and which are designed to provide electric service for  
9 the structure's anticipated needs for the indefinite future, as  
10 contrasted with facilities installed temporarily to provide  
11 electrical service during construction. Service provided  
12 temporarily shall be at the risk of the electrical supplier and  
13 shall not be determinative of the rights of the provider or  
14 recipient of permanent service;

15 (2) "Structure" or "structures", an agricultural,  
16 residential, commercial, industrial or other building or a  
17 mechanical installation, machinery or apparatus at which retail  
18 electric energy is being delivered through a metering device  
19 which is located on or adjacent to the structure and connected to  
20 the lines of an electrical supplier. Such terms shall include  
21 any contiguous or adjacent additions to or expansions of a  
22 particular structure. Nothing in this section shall be construed  
23 to confer any right on ~~[a rural electric cooperative]~~ an electric  
24 supplier to serve new structures on a particular tract of land  
25 because it was serving an existing structure on that tract.

26 2. Once a rural electric cooperative, or its predecessor in  
27 interest, lawfully commences supplying retail electric energy to

1 a structure through permanent service facilities, it shall have  
2 the right to continue serving such structure, and other suppliers  
3 of electrical energy shall not have the right to provide service  
4 to the structure except as might be otherwise permitted in the  
5 context of municipal annexation, pursuant to section 386.800 and  
6 section 394.080, or pursuant to a territorial agreement approved  
7 under section 394.312. The public service commission, upon  
8 application made by an affected party, may order a change of  
9 suppliers on the basis that it is in the public interest for a  
10 reason other than a rate differential, and the commission is  
11 hereby given jurisdiction over rural electric cooperatives to  
12 accomplish the purpose of this section. The commission's  
13 jurisdiction under this section is limited to public interest  
14 determinations and excludes questions as to the lawfulness of the  
15 provision of service, such questions being reserved to courts of  
16 competent jurisdiction. Except as provided herein, nothing in  
17 this section shall be construed as otherwise conferring upon the  
18 commission jurisdiction over the service, rates, financing,  
19 accounting or management of any such cooperative, and except as  
20 provided in this section, nothing contained herein shall affect  
21 the rights, privileges or duties of existing cooperatives  
22 pursuant to this chapter. Nothing in this section shall be  
23 construed to make lawful any provision of service which was  
24 unlawful prior to July 11, 1991. Nothing in this section shall  
25 be construed to make unlawful the continued lawful provision of  
26 service to any structure which may have had a different supplier  
27 in the past, if such a change in supplier was lawful at the time

1 it occurred. However, those customers who had cancelled service  
2 with their previous supplier or had requested cancellation by May  
3 1, 1991, shall be eligible to change suppliers as per previous  
4 procedures. No customer shall be allowed to change electric  
5 suppliers by disconnecting service between May 1, 1991, and July  
6 11, 1991.

7 3. Notwithstanding the provisions of this section, section  
8 91.025, section 393.106, and section 394.080 to the contrary, in  
9 the event that a retail electric supplier is providing service to  
10 a structure located within a city, town, or village that has  
11 ceased to be a rural area, and such structure is demolished and  
12 replaced by a new structure, such retail electric service  
13 supplier may provide permanent service to the new structure upon  
14 the request of the owner of the new structure.

15 400.9-109. (a) Except as otherwise provided in subsections  
16 (c) and (d), this article applies to:

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

19 (2) An agricultural lien;

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

22 (4) A consignment;

23 (5) A security interest arising under section 400.2-401,  
24 400.2-505, 400.2-711(3) or 400.2A-508(5), as provided in section  
25 400.9-110; and

26 (6) A security interest arising under section 400.4-210 or  
27 400.5-118.

1 (b) The application of this article to a security interest  
2 in a secured obligation is not affected by the fact that the  
3 obligation is itself secured by a transaction or interest to  
4 which this article does not apply.

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

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

8 (2) Another statute of this state expressly governs the  
9 creation, perfection, priority, or enforcement of a security  
10 interest created by this state or a governmental unit of this  
11 state;

12 (3) A statute of another state, a foreign country, or a  
13 governmental unit of another state or a foreign country, other  
14 than a statute generally applicable to security interests,  
15 expressly governs creation, perfection, priority, or enforcement  
16 of a security interest created by the state, country, or  
17 governmental unit; or

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

21 (d) This article does not apply to:

22 (1) A landlord's lien, other than an agricultural lien;

23 (2) A lien, other than an agricultural lien, given by  
24 statute or other rule of law for services or materials, but  
25 section 400.9-333 applies with respect to priority of the lien;

26 (3) An assignment of a claim for wages, salary, or other  
27 compensation of an employee;

1           (4) A sale of accounts, chattel paper, payment intangibles,  
2 or promissory notes as part of a sale of the business out of  
3 which they arose;

4           (5) An assignment of accounts, chattel paper, payment  
5 intangibles, or promissory notes which is for the purpose of  
6 collection only;

7           (6) An assignment of a right to payment under a contract to  
8 an assignee that is also obligated to perform under the contract;

9           (7) An assignment of a single account, payment intangible,  
10 or promissory note to an assignee in full or partial satisfaction  
11 of a preexisting indebtedness;

12           (8) A transfer of an interest in or an assignment of a  
13 claim under a policy of insurance, other than an assignment by or  
14 to a health-care provider of a health-care-insurance receivable  
15 and any subsequent assignment of the right to payment, but  
16 sections 400.9-315 and 400.9-322 apply with respect to proceeds  
17 and priorities in proceeds;

18           (9) An assignment of a right represented by a judgment,  
19 other than a judgment taken on a right to payment that was  
20 collateral;

21           (10) A right of recoupment or set-off, but:

22           (A) Section 400.9-340 applies with respect to the  
23 effectiveness of rights of recoupment or set-off against deposit  
24 accounts; and

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

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

4 (A) Liens on real property in sections 400.9-203 and 400.9-  
5 308;

6 (B) Fixtures in section 400.9-334;

7 (C) Fixture filings in sections 400.9-501, 400.9-502,  
8 400.9-512, 400.9-516 and 400.9-519; and

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

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

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

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

20 (15) An assignment of a claim or right to receive benefits  
21 under a special needs trust as described in 42 U.S.C. Section  
22 1396p(d) (4), as amended from time to time; ~~[or]~~

23 (16) A transfer by a government or governmental subdivision  
24 or agency; or

25 (17) The creation, attachment, perfection, priority, or  
26 enforcement of any security interest in, or the sale, assignment,  
27 or other transfer of, any securitized utility tariff property as



1 defined in section 393.1700, or any interest therein or any  
2 portion thereof, in each case except as otherwise expressly  
3 provided in section 393.1700.

4 ~~[393.1073. 1. There is hereby established the~~  
5 ~~"Task Force on Wind Energy", which shall be composed of~~  
6 ~~the following members:~~

7 ~~————— (1) Three members of the house of~~  
8 ~~representatives, with two appointed by the speaker of~~  
9 ~~the house of representatives and one appointed by the~~  
10 ~~minority floor leader of the house of representatives;~~

11 ~~————— (2) Three members of the senate, with two~~  
12 ~~appointed by the president pro tempore of the senate~~  
13 ~~and one appointed by the minority floor leader of the~~  
14 ~~senate; and~~

15 ~~————— (3) Two representatives from Missouri county~~  
16 ~~governments with experience in wind energy valuations,~~  
17 ~~with one being a currently elected county assessor to~~  
18 ~~be appointed by the speaker of the house of~~  
19 ~~representatives, and one being a currently elected~~  
20 ~~county clerk to be appointed by the president pro~~  
21 ~~tempore of the senate.~~

22 ~~————— 2. The task force shall conduct public hearings~~  
23 ~~and research, and shall compile a report for delivery~~  
24 ~~to the general assembly by no later than December 31,~~  
25 ~~2019. Such report shall include information on the~~  
26 ~~following:~~

27 ~~————— (1) The economic benefits and drawbacks of wind~~  
28 ~~turbines to local communities and the state;~~

29 ~~————— (2) The fair, uniform, and standardized~~  
30 ~~assessment and taxation of wind turbines and their~~  
31 ~~connected equipment owned by a public utility company~~  
32 ~~at the county level in all counties;~~

33 ~~————— (3) Compliance with existing federal and state~~  
34 ~~programs and regulations; and~~

35 ~~————— (4) Potential legislation that will provide a~~  
36 ~~uniform assessment and taxation methodology for wind~~  
37 ~~turbines and their connected equipment owned by a~~  
38 ~~public utility company that will be used in every~~  
39 ~~county of Missouri.~~

40 ~~————— 3. The task force shall meet within thirty days~~  
41 ~~after its creation and shall organize by selecting a~~  
42 ~~chairperson and vice chairperson, one of whom shall be~~  
43 ~~a member of the senate and the other a member of the~~  
44 ~~house of representatives. Thereafter, the task force~~  
45 ~~may meet as often as necessary in order to accomplish~~

1 ~~the tasks assigned to it. A majority of the task force~~  
2 ~~shall constitute a quorum, and a majority vote of such~~  
3 ~~quorum shall be required for any action.~~

4 ~~4. The staff of house research and senate~~  
5 ~~research shall provide necessary clerical, research,~~  
6 ~~fiscal, and legal services to the task force, as the~~  
7 ~~task force may request.~~

8 ~~5. The members of the task force shall serve~~  
9 ~~without compensation, but any actual and necessary~~  
10 ~~expenses incurred in the performance of the task~~  
11 ~~force's official duties by the task force, its members,~~  
12 ~~and any staff assigned to the task force shall be paid~~  
13 ~~from the joint contingent fund.~~

14 ~~6. This section shall expire on December 31,~~  
15 ~~2019.]~~

16  
17 ✓  
18

19 \_\_\_\_\_  
20 Representative Michael O'Donnell

\_\_\_\_\_  
Senator Mike Cierpiot