

FIRST REGULAR SESSION  
HOUSE COMMITTEE SUBSTITUTE FOR  
**HOUSE BILL NO. 734**  
**101ST GENERAL ASSEMBLY**

1660H.02C

DANA RADEMAN MILLER, Chief Clerk

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**AN ACT**

To repeal section 400.9-109, RSMo, and to enact in lieu thereof five new sections relating to electrical corporations.

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

Section A. Section 400.9-109, RSMo, is repealed and five new sections enacted in lieu thereof, to be known as sections 393.1700, 393.1705, 393.1710, 393.1715, and 400.9-109, to read as follows:

**393.1700. 1. For purposes of this section and section 393.1705, the following terms shall mean:**

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

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

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

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

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

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

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

18 (7) "Energy transition costs", all of the following:

19 (a) Pretax costs with respect to a retired or abandoned or to be retired or  
20 abandoned coal-fired electric generating facility that is the subject of a petition for a  
21 financing order filed under this section where such early retirement or abandonment is  
22 deemed reasonable and prudent by the commission through a final order issued by the  
23 commission include, but are not limited to, the undepreciated investment in the retired or  
24 abandoned or to be retired or abandoned coal-fired electric generating facility and any  
25 facilities ancillary thereto or used in conjunction therewith, costs of decommissioning and  
26 restoring the site of the electric generating facility, other applicable capital and operating  
27 costs, accrued carrying charges, and deferred expenses with the foregoing to be reduced  
28 by applicable tax benefits of accumulated and excess deferred income taxes, insurance  
29 scrap and salvage proceeds and include the cost of retiring any existing indebtedness, fees,  
30 costs, and expenses to modify existing debt agreements or for waivers or consents related  
31 to existing debt agreements; and

32 (b) Pretax costs that an electrical corporation has previously incurred related to the  
33 retirement or abandonment of such a coal-fired electric generating facility occurring  
34 before August 28, 2021;

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

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

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

42 (c) Any other cost related to issuing, supporting, repaying, refunding, and servicing  
43 securitized utility tariff bonds, including servicing fees, accounting and auditing fees,  
44 trustee fees, legal fees, consulting fees, structuring adviser fees, administrative fees,  
45 placement and underwriting fees, independent director and manager fees, capitalized  
46 interest, rating agency fees, stock exchange listing and compliance fees, security  
47 registration fees, filing fees, information technology programming costs, and any other  
48 costs necessary to otherwise ensure the timely payment of securitized utility tariff bonds  
49 or other amounts or charges payable in connection with the bonds, including costs related  
50 to obtaining the financing order;

51 (d) Any taxes and license fees or other fees imposed on the revenues generated from  
52 the collection of the securitized utility tariff charge or otherwise resulting from the

53 collection of securitized utility tariff charges, in any such case whether paid, payable, or  
54 accrued;

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

57 (f) Any costs of the commission needed to perform the commission responsibilities  
58 under this act in connection with the issuance of a financing order including costs to engage  
59 counsel and a financial advisor;

60 (9) "Financing order", an order from the commission that authorizes the issuance  
61 of securitized utility tariff bonds; the imposition, collection, and periodic adjustments of  
62 a securitized utility tariff charge; the creation of securitized utility tariff property; and the  
63 sale, assignment, or transfer of energy transition property to an assignee;

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

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

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

70 (13) "Qualified extraordinary costs", costs incurred before, on, or after the  
71 effective date of this section of an extraordinary nature which could cause extreme  
72 customer rate impacts if reflected in retail customer rates through customary ratemaking  
73 including, but not limited to, those related to purchases of fuel or power, inclusive of  
74 carrying charges, during anomalous weather events;

75 (14) "Rate base cutoff date", the same as defined in subdivision (4) of subsection  
76 1 of section 393.1400 as such term existed on August 28, 2021;

77 (15) "Securitized utility tariff bonds", bonds, debentures, notes, certificates of  
78 participation, certificates of beneficial interest, certificates of ownership, or other evidence  
79 of indebtedness or ownership that are issued by an electrical corporation or an assignee  
80 pursuant to a financing order, the proceeds of which are used directly or indirectly to  
81 recover, finance, or refinance commission-approved energy transition costs and financing  
82 costs, and that are secured by or payable from energy transition property. If certificates  
83 of participation or ownership are issued, references in this section to principal, interest, or  
84 premium shall be construed to refer to comparable amounts under those certificates;

85 (16) "Securitized utility tariff charge", the amounts authorized by the commission  
86 to repay, finance, or refinance energy transition costs and financing costs and that are,  
87 except as otherwise provided for in this section, nonbypassable charges imposed on and  
88 part of all retail customer bills collected by an electrical corporation or its successors or

89 assignees or a collection agent, in full, separate and apart from the electrical corporation's  
90 base rates, and paid by all existing or future retail customers receiving electrical service  
91 from the electrical corporation or its successors or assignees under commission-approved  
92 rate schedules, except for customers receiving electrical service under special contracts as  
93 of August 28, 2021, even if a retail customer elects to purchase electricity from an  
94 alternative electricity supplier following a fundamental change in regulation of public  
95 utilities in this state;

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

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

99 (a) All rights and interests of an electrical corporation or successor or assignee of  
100 the electrical corporation under a financing order, including the right to impose, bill,  
101 charge, collect, and receive securitized utility tariff charges authorized under the financing  
102 order and to obtain periodic adjustments to such charges as provided in the financing  
103 order; and

104 (b) All revenues, collections, claims, rights to payments, payments, moneys, or  
105 proceeds arising from the rights and interests specified in the financing order, regardless  
106 of whether such revenues, collections, claims, rights to payment, payments, moneys, or  
107 proceeds are imposed, billed, received, collected, or maintained together with or  
108 commingled with other revenues, collections, rights to payment, payments, moneys, or  
109 proceeds;

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

112 2. (1) An electrical corporation may petition the commission for a financing order  
113 to finance energy transition costs through an issuance of securitized utility tariff bonds.  
114 The petition shall include all of the following:

115 (a) A description of the coal-fired electric generating facility or facilities that the  
116 electrical corporation has retired or abandoned, or proposes to retire or abandon, prior  
117 to the date that all undepreciated investments relating thereto have been recovered through  
118 rates and the reasons for undertaking such early retirement or abandonment, or if the  
119 electrical corporation is subject to a separate commission order or proceeding relating to  
120 such retirement or abandonment as contemplated by subdivision (2) of this subsection, and  
121 a description of the order or other proceeding;

122 (b) The energy transition costs;

123 (c) An indicator of whether the electrical corporation proposes to finance all or a  
124 portion of the energy transition costs using securitized utility tariff bonds. If the electrical

125 corporation proposes to finance a portion of the costs, the electrical corporation shall  
126 identify the specific portion in the petition. By electing not to finance all or any portion of  
127 such energy transition costs using securitized utility tariff bonds, an electrical corporation  
128 shall not be deemed to waive its right to recover such costs pursuant to a separate  
129 proceeding with the commission;

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

131 (e) An estimate of the energy transition charges necessary to recover the securitized  
132 utility tariff costs and financing costs and the period for recovery of such costs;

133 (f) A comparison between the net present value of the costs to customers that are  
134 estimated to result from the issuance of securitized utility tariff bonds and the costs that  
135 would result from the application of the traditional method of financing and recovering the  
136 undepreciated investment of facilities that may become securitized utility tariff costs from  
137 customers. The comparison should demonstrate that the issuance of energy transition  
138 bonds and the imposition of securitized utility tariff charges are expected to provide  
139 quantifiable benefits to customers; and

140 (g) Direct testimony and schedules supporting the petition.

141 (2) An electrical corporation may petition the commission for a financing order to  
142 securitize qualified extraordinary costs. The petition shall include all of the following:

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

146 (b) An indicator of whether the electrical corporation proposes to finance all or a  
147 portion of the qualified extraordinary costs using securitized utility tariff bonds. If the  
148 electrical corporation proposes to finance a portion of the costs, the electrical corporation  
149 shall identify the specific portion in the petition. By electing not to finance all or any  
150 portion of such qualified extraordinary costs using securitized utility tariff bonds, an  
151 electrical corporation shall not be deemed to waive its right to reflect recover such costs in  
152 its retail rates pursuant to a separate proceeding with the commission;

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

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

156 (e) A comparison between the net present value of the costs to customers that are  
157 estimated to result from the issuance of securitized utility tariff bonds and the costs that  
158 would result from the application of the customary method of financing and reflecting  
159 covering the qualified extraordinary costs in from retail customer rates. The comparison  
160 should demonstrate that the issuance of securitized utility tariff bonds and the imposition

161 of securitized utility tariff charges are expected to provide quantifiable benefits to retail  
162 customers; and

163 (f) Direct testimony and schedules supporting the petition.

164 (3) (a) Proceedings on a petition submitted pursuant to this subdivision begin with  
165 the petition by an electrical corporation, filed subject to the time frame specified in  
166 subdivision (2) of this subsection, if applicable, and shall be disposed of in accordance with  
167 the requirements of this section and the rules of the commission, except as follows:

168 a. Within fourteen days after the date the petition is filed, the commission shall  
169 establish a procedural schedule that permits a commission decision no later than one  
170 hundred thirty-five days after the date the petition is filed;

171 b. No later than one hundred thirty-five days after the date the petition is filed, the  
172 commission shall issue a financing order approving the petition or an order rejecting the  
173 petition; and

174 c. An adversely affected party may seek judicial review of a financing order in  
175 accordance with sections 386.500 and 386.510.

176 (b) A financing order issued by the commission to an electrical corporation shall  
177 include all of the following elements:

178 a. The amount of securitized utility tariff costs to be financed using securitized  
179 utility tariff bonds. The commission shall describe and estimate the amount of financing  
180 costs that may be recovered through securitized utility tariff charges and specify the period  
181 over which securitized utility tariff costs and financing costs may be recovered;

182 b. A finding that the proposed issuance of securitized utility tariff bonds and the  
183 imposition and collection of a securitized utility tariff charge are expected to provide  
184 quantifiable benefits to customers as compared to the costs to recover the securitized utility  
185 tariff costs that would have been incurred absent the issuance of securitized utility tariff  
186 bonds;

187 c. A finding that the structuring and pricing of the securitized utility tariff bonds  
188 are reasonably expected to result in the lowest securitized utility tariff charges consistent  
189 with market conditions at the time the securitized utility tariff bonds are priced and the  
190 terms of the financing order;

191 d. A requirement that, for so long as the securitize utility tariff bonds are  
192 outstanding and until all financing costs have been paid in full, the imposition and  
193 collection of energy transition charges authorized under a financing order shall be  
194 nonbypassable and paid by all existing and future retail customers receiving electrical  
195 service from the electrical corporation or its successors or assignees under commission-  
196 approved rate schedules, except for customers receiving electrical service under special

197 **contracts on August 28, 2021, even if a retail customer elects to purchase electricity from**  
198 **an alternative electric supplier following a fundamental change in regulation of public**  
199 **utilities in this state;**

200 **e. A formula-based, true-up mechanism for making, at least annually, expeditious**  
201 **periodic adjustments in the securitized utility tariff charges that customers are required**  
202 **to pay pursuant to the financing order and for making any adjustments that are necessary**  
203 **to correct for any overcollection or undercollection of the charges or to otherwise ensure**  
204 **the timely payment of securitized utility tariff bonds and financing costs and other**  
205 **required amounts and charges payable in connection with the energy transition bonds;**

206 **f. The securitized utility tariff property that is, or shall be, created in favor of an**  
207 **electrical corporation or its successors or assignees and that shall be used to pay or secure**  
208 **energy transition bonds and all financing costs;**

209 **g. The degree of flexibility to be afforded to the electrical corporation in**  
210 **establishing the terms and conditions of the securitized utility tariff bonds, including, but**  
211 **not limited to, repayment schedules, expected interest rates, and other financing costs;**

212 **h. How securitized utility tariff charges will be allocated among retail customer**  
213 **classes. The initial allocation shall remain in effect until the electrical corporation**  
214 **completes a general rate proceeding, and once the commission's order from that general**  
215 **rate proceeding becomes final, all subsequent applications of an adjustment mechanism**  
216 **regarding securitized utility tariff charges shall incorporate changes in the allocation of**  
217 **costs to customers as detailed in the commission's order from the electrical corporation's**  
218 **most recent general rate proceeding;**

219 **i. A requirement that, after the final terms of an issuance of securitized utility tariff**  
220 **bonds have been established and before the issuance of securitized utility tariff bonds, the**  
221 **electrical corporation determines the resulting initial securitized utility tariff charge in**  
222 **accordance with the financing order and that such initial securitized utility tariff charge**  
223 **be final and effective upon the issuance of such securitized utility tariff bonds without**  
224 **further commission action so long as the securitized utility tariff charge is consistent with**  
225 **the financing order;**

226 **j. A method of tracing funds collected as securitized utility tariff charges, or other**  
227 **proceeds of securitized utility tariff property, determining that such method shall be**  
228 **deemed the method of tracing such funds and determining the identifiable cash proceeds**  
229 **of any securitized utility tariff property subject to a financing order under applicable law;**

230 **k. A procedure that shall allow the electrical corporation to earn a return, at the**  
231 **cost of capital authorized from time to time by the commission in the electrical**  
232 **corporation's rate proceedings, on any moneys advanced by the electrical corporation to**

233 fund reserves, if any, or capital accounts established under the terms of any indenture,  
234 ancillary agreement, or other financing documents pertaining to the securitized utility  
235 tariff bonds;

236 l. In a financing order granting authorization to securitize energy transition costs  
237 or in a financing order granting authorization to securitize qualified extraordinary costs  
238 that include retired or abandoned facility costs, a procedure for the treatment of  
239 accumulated deferred income taxes and excess deferred income taxes in connection with  
240 the retired or abandoned or to be retired or abandoned coal-fired electric generating  
241 facility, or in connection with retired or abandoned facilities included in qualified  
242 extraordinary costs. The accumulated deferred income taxes, including excess deferred  
243 income taxes, shall be excluded from rate base in future general rate cases and the net tax  
244 benefits relating to amounts that will be recovered through the issuance of securitized  
245 utility tariff bonds shall be credited to retail customers by reducing the amount of such  
246 securitized utility tariff bonds that would otherwise be issued. The customer credit shall  
247 include the net present value of the tax benefits, calculated using a discount rate equal to  
248 the expected interest rate of the securitized utility tariff bonds, for the estimated  
249 accumulated and excess deferred income taxes at the time of securitization including timing  
250 differences created by the issuance of securitized utility tariff bonds amortized over the  
251 period of the bonds multiplied by the expected interest rate on such securitized utility tariff  
252 bonds;

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

256 n. Any other conditions that the commission considers appropriate and that are  
257 authorized by this section.

258 (c) A financing order issued to an electrical corporation may provide that creation  
259 of the electrical corporation's securitized utility tariff property is conditioned upon, and  
260 simultaneous with, the sale or other transfer of the securitized utility tariff property to an  
261 assignee and the pledge of the securitized utility tariff property to secure energy transition  
262 bonds.

263 (d) If the commission issues a financing order, the electrical corporation shall file  
264 with the commission at least annually a petition or a letter applying the formula-based,  
265 true-up mechanism and, based on estimates of consumption for each rate class and other  
266 mathematical factors, request administrative approval to make the applicable adjustments.  
267 The review of the filing shall be limited to determining whether there are any mathematical  
268 or clerical errors in the application of the formula-based, true-up mechanism relating to

269 the appropriate amount of any overcollection or undercollection of securitized utility tariff  
270 charges and the amount of an adjustment. The adjustments shall ensure the recovery of  
271 revenues sufficient to provide for the payment of principal, interest, acquisition,  
272 defeasance, financing costs, or redemption premium and other fees, costs, and charges in  
273 respect of securitized utility tariff bonds approved under the financing order. Within  
274 thirty days after receiving an electrical corporation's request pursuant to this paragraph,  
275 the commission shall either approve the request or inform the electrical corporation of any  
276 mathematical or clerical errors in its calculation. If the commission informs the electrical  
277 corporation of mathematical or clerical errors in its calculation, the electrical corporation  
278 may correct its error and refile its request. The time frames previously described in this  
279 paragraph shall apply to a refiled request.

280 (e) At the time of any transfer of securitized utility tariff property to an assignee  
281 or the issuance of securitized utility tariff bonds authorized thereby, whichever is earlier,  
282 a financing order is irrevocable and, except for changes made pursuant to the formula-  
283 based, true-up mechanism authorized in this section, the commission may not amend,  
284 modify, or terminate the financing order by any subsequent action or reduce, impair,  
285 postpone, terminate, or otherwise adjust securitized utility tariff charges approved in the  
286 financing order. After the issuance of a financing order, the electrical corporation retains  
287 sole discretion regarding whether to assign, sell, or otherwise transfer securitized utility  
288 tariff property or to cause securitized utility tariff bonds to be issued, including the right  
289 to defer or postpone such assignment, sale, transfer, or issuance.

290 (4) (a) In performing the responsibilities of this section in connection with the  
291 issuance of a financing order, the commission may engage a financial advisor and counsel  
292 as the commission deems necessary. All expenses associated with such services shall be  
293 included as part of the financing costs of the securitized utility tariff bonds and shall be  
294 included in the securitized utility tariff charge.

295 (b) If an electrical corporation's petition for a financing order is denied or  
296 withdrawn, or for any reason securitized utility tariff bonds are not issued, any costs of  
297 retaining a financial advisor and counsel on behalf of the commission shall be paid by the  
298 petitioning electrical corporation and shall be eligible for full recovery, including carrying  
299 costs, in the electrical corporation's future rates.

300 (5) At the request of an electrical corporation, the commission may commence a  
301 proceeding and issue a subsequent financing order that provides for refinancing, retiring,  
302 or refunding securitized utility tariff bonds issued pursuant to the original financing order  
303 if the commission finds that the subsequent financing order satisfies all of the criteria  
304 specified in this section for a financing order. Effective upon retirement of the refunded

305 securitized utility tariff bonds and the issuance of new securitized utility tariff bonds, the  
306 commission shall adjust the related energy transition charges accordingly.

307 (6) (a) A financing order remains in effect and securitized utility tariff property  
308 under the financing order continues to exist until securitized utility tariff bonds issued  
309 pursuant to the financing order have been paid in full or defeased and, in each case, all  
310 commission-approved financing costs of such securitized utility tariff bonds have been  
311 recovered in full.

312 (b) A financing order issued to an electrical corporation remains in effect and  
313 unabated notwithstanding the reorganization, bankruptcy, or other insolvency proceeding,  
314 merger, or sale of the electrical corporation or its successors or assignees.

315 3. (1) The commission may not, in exercising its powers and carrying out its duties  
316 regarding any matter within its authority, consider the securitized utility tariff bonds  
317 issued pursuant to a financing order to be the debt of the electrical corporation other than  
318 for federal and state income tax purposes, consider the securitized utility tariff charges  
319 paid under the financing order to be the revenue of the electrical corporation for any  
320 purpose, consider the securitized utility tariff costs or financing costs specified in the  
321 financing order to be the costs of the electrical corporation nor may the commission  
322 determine any action taken by an electrical corporation which is consistent with the  
323 financing order to be unjust or unreasonable, and section 386.300 shall not apply to the  
324 issuance of securitized utility tariff bonds.

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

329 (3) No electrical corporation is required to file a petition for a financing order  
330 under this section or otherwise utilize this section. An electrical corporation's decision not  
331 to file a petition for a financing order under this section or otherwise utilize this section  
332 shall not be admissible in any commission proceeding, nor shall it be otherwise utilized or  
333 relied on by the commission in any proceeding respecting the electrical corporation's rates  
334 or its accounting, including, without limitation, any general rate proceeding, fuel  
335 adjustment clause docket, or proceedings relating to accounting authority, whether  
336 initiated by the electrical corporation or otherwise. The commission may not order or  
337 otherwise directly or indirectly require an electrical corporation to use securitized utility  
338 tariff bonds to recover securitized utility tariff costs or to finance any project, addition,  
339 plant, facility, extension, capital improvement, equipment, or any other expenditure. After  
340 the issuance of a financing order, the electrical corporation retains sole discretion

341 regarding whether to cause the securitized utility tariff bonds to be issued, including the  
342 right to defer or postpone such sale, assignment, transfer, or issuance. Nothing shall  
343 prevent the electrical corporation from abandoning the issuance of securitized utility tariff  
344 bonds under the financing order by filing with the commission a statement of  
345 abandonment and the reasons therefore; provided, that the electrical corporation's  
346 abandonment decision shall not be deemed imprudent because of the potential availability  
347 of securitized utility tariff bond financing.

348 (4) The commission may not refuse to allow an electrical corporation to recover  
349 securitized utility tariff costs in an otherwise permissible fashion, or refuse or condition  
350 authorization or approval of the issuance and sale by an electrical corporation of securities  
351 or the assumption by the electrical corporation of liabilities or obligations, because of the  
352 potential availability of securitized utility tariff bond financing.

353 (5) The commission may not, directly or indirectly, utilize or consider the debt  
354 reflected by the securitized utility tariff bonds in establishing the electrical corporation's  
355 capital structure used to determine any regulatory matter including, but not limited to the  
356 electrical corporation's revenue requirement used to set its rates.

357 (6) The commission may not, directly or indirectly, consider the existence of  
358 securitized utility tariff bonds or the potential use of securitized utility tariff bond  
359 financing proceeds in determining the electrical corporation's authorized rate of return  
360 used to determine the electrical corporation's revenue requirement used to set its rates.

361 4. The electric bills of an electrical corporation that has obtained a financing order  
362 and caused securitized utility tariff bonds to be issued shall comply with the provisions of  
363 this subsection; however, the failure of an electrical corporation to comply with this  
364 subsection does not invalidate, impair, or affect any financing order, securitized utility  
365 tariff property, securitized utility tariff charge, or securitized utility tariff bonds. The  
366 electrical corporation shall do the following:

367 (1) Explicitly reflect that a portion of the charges on such bill represents securitized  
368 utility tariff charges approved in a financing order issued to the electrical corporation and,  
369 if the securitized utility tariff property has been transferred to an assignee, shall include  
370 a statement to the effect that the assignee is the owner of the rights to securitized utility  
371 tariff charges and that the electrical corporation or other entity, if applicable, is acting as  
372 a collection agent or servicer for the assignee. The tariff applicable to customers shall  
373 indicate the securitized utility tariff charge and the ownership of the charge; and

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

376           **5. (1) (a) All securitized utility tariff property that is specified in a financing order**  
377 **constitutes an existing, present, intangible property right or interest therein,**  
378 **notwithstanding that the imposition and collection of securitized utility tariff charges**  
379 **depends on the electrical corporation, to which the financing order is issued, performing**  
380 **its servicing functions relating to the collection of energy transition charges and on future**  
381 **electricity consumption. The property exists:**

382           **a. Regardless of whether the revenues or proceeds arising from the property have**  
383 **been billed, have accrued, or have been collected; and**

384           **b. Notwithstanding the fact that the value or amount of the property is dependent**  
385 **on the future provision of service to customers by the electrical corporation or its**  
386 **successors or assignees and the future consumption of electricity by customers.**

387           **(b) Securitized utility tariff property specified in a financing order exists until**  
388 **securitized utility tariff bonds issued pursuant to the financing order are paid in full and**  
389 **all financing costs and other costs of such energy transition bonds have been recovered in**  
390 **full.**

391           **(c) All or any portion of securitized utility tariff property specified in a financing**  
392 **order issued to an electrical corporation may be transferred, sold, conveyed, or assigned**  
393 **to a successor or assignee that is wholly owned, directly or indirectly, by the electrical**  
394 **corporation and created for the limited purpose of acquiring, owning, or administering**  
395 **securitized utility tariff property or issuing securitized utility tariff bonds under the**  
396 **financing order. All or any portion of securitized utility tariff property may be pledged**  
397 **to secure securitized utility tariff bonds issued pursuant to the financing order, amounts**  
398 **payable to financing parties and to counterparties under any ancillary agreements, and**  
399 **other financing costs. Any transfer, sale, conveyance, assignment, grant of a security**  
400 **interest in or pledge of securitized utility tariff property by an electrical corporation, or an**  
401 **affiliate of the electrical corporation, to an assignee, to the extent previously authorized in**  
402 **a financing order, does not require the prior consent and approval of the commission.**

403           **(d) If an electrical corporation defaults on any required remittance of securitized**  
404 **utility tariff charges arising from securitized utility tariff property specified in a financing**  
405 **order, a court, upon application by an interested party, and without limiting any other**  
406 **remedies available to the applying party, shall order the sequestration and payment of the**  
407 **revenues arising from the securitized utility tariff property to the financing parties or their**  
408 **assignees. Any such financing order remains in full force and effect notwithstanding any**  
409 **reorganization, bankruptcy, or other insolvency proceedings with respect to the electrical**  
410 **corporation or its successors or assignees.**

411 (e) The interest of a transferee, purchaser, acquirer, assignee, or pledgee in  
412 securitized utility tariff property specified in a financing order issued to an electrical  
413 corporation, and in the revenue and collections arising from that property, is not subject  
414 to setoff, counterclaim, surcharge, or defense by the electrical corporation or any other  
415 person or in connection with the reorganization, bankruptcy, or other insolvency of the  
416 electrical corporation or any other entity.

417 (f) Any successor to an electrical corporation, whether pursuant to any  
418 reorganization, bankruptcy, or other insolvency proceeding or whether pursuant to any  
419 merger or acquisition, sale, or other business combination, or transfer by operation of law,  
420 as a result of electrical corporation restructuring or otherwise, shall perform and satisfy  
421 all obligations of, and have the same rights under a financing order as, the electrical  
422 corporation under the financing order in the same manner and to the same extent as the  
423 electrical corporation, including collecting and paying to the person entitled to receive the  
424 revenues, collections, payments, or proceeds of the securitized utility tariff property.  
425 Nothing in this section is intended to limit or impair any authority of the commission  
426 concerning the transfer or succession of interests of public utilities.

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

430 (2) (a) The creation, perfection, and enforcement of any security interest in  
431 securitized utility tariff property to secure the repayment of the principal and interest and  
432 other amounts payable in respect of securitized utility tariff bonds, amounts payable under  
433 any ancillary agreement and other financing costs are governed by this section and not by  
434 the provisions of the code, except as otherwise provided in this section.

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

437 a. The financing order is issued;

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

440 c. The debtor has rights in such securitized utility tariff property or the power to  
441 transfer rights in such securitized utility tariff property; or

442 d. Value is received for the securitized utility tariff property.

443

444 The description of securitized utility tariff property in a security agreement is sufficient  
445 if the description refers to this section and the financing order creating the securitized  
446 utility tariff property.

447           (c) Upon the filing of a financing statement with the office of the secretary of state  
448 as provided in this section, a security interest in securitized utility tariff property shall be  
449 perfected against all parties having claims of any kind in tort, contract, or otherwise  
450 against the person granting the security interest, and regardless of whether the parties  
451 have notice of the security interest. Without limiting the foregoing, upon such filing, a  
452 security interest in securitized utility tariff property shall be perfected against all claims  
453 of lien creditors, and shall have priority over all competing security interests and other  
454 claims other than any security interest previously perfected in accordance with this section.

455           (d) The priority of a security interest in securitized utility tariff property is not  
456 affected by the commingling of securitized utility tariff charges with other amounts. Any  
457 pledgee or secured party shall have a perfected security interest in the amount of all  
458 securitized utility tariff charges that are deposited in any cash or deposit account of the  
459 qualifying electrical corporation in which securitized utility tariff charges have been  
460 commingled with other funds and any other security interest that may apply to those funds  
461 shall be terminated when they are transferred to a segregated account for the assignee or  
462 a financing party.

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

466           (f) If a default occurs under the securitized utility tariff bonds that are secured by  
467 a security interest in securitized utility tariff property, the financing parties or their  
468 representatives may exercise the rights and remedies available to a second party under the  
469 uniform commercial code, including all rights and remedies available. The commission  
470 may also order amounts arising from securitized utility tariff charges to be transferred to  
471 a separate account for the financing parties' benefit, to which their lien and security  
472 interest shall apply. On application by or on behalf of the financing parties, the circuit  
473 court for the county or city in which the electrical corporation's headquarters is located  
474 shall order the sequestration and payment to them of revenues arising from the securitized  
475 utility tariff charges.

476           (3) (a) Any sale, assignment, or other transfer of securitized utility tariff property  
477 shall be an absolute transfer and true sale of, and not a pledge of or secured transaction  
478 relating to, the seller's right, title, and interest in, to, and under the energy transition  
479 property if the documents governing the transaction expressly state that the transaction  
480 is a sale or other absolute transfer other than for federal and state income tax purposes.  
481 For all purposes other than federal and state income tax purposes, the parties'  
482 characterization of a transaction as a sale of an interest in securitized utility tariff property

483 shall be conclusive that the transaction is a true sale and that ownership has passed to the  
484 party characterized as the purchaser, regardless of whether the purchaser has possession  
485 of any documents evidencing or pertaining to the interest. A sale or similar outright  
486 transfer of an interest in securitized utility tariff property may occur only when all of the  
487 following have occurred:

488       a. The financing order creating the securitized utility tariff property has become  
489 effective;

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

492       c. Value is received for the securitized utility tariff property.  
493

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

497       (b) The characterization of the sale, assignment, or other transfer as an absolute  
498 transfer and true sale and the corresponding characterization of the property interest of  
499 the purchaser, shall not be affected or impaired by the occurrence of any of the following  
500 factors:

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

502       b. The retention by the seller of a partial or residual interest, including an equity  
503 interest, in the energy transit securitized utility tariff ion property, whether direct or  
504 indirect, or whether subordinate or otherwise, or the right to recover costs associated with  
505 taxes, franchise fees, or license fees imposed on the collection of securitized utility tariff  
506 charges;

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

508       d. Any indemnification rights, obligations, or repurchase rights made or provided  
509 by the seller;

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

512       f. The transferor acting as the servicer of the securitized utility tariff charges or the  
513 existence of any contract that authorizes or requires the electrical corporation, to the extent  
514 that any interest in securitized utility tariff property is sold or assigned, to contract with  
515 the assignee or any financing party that it will continue to operate its system to provide  
516 service to its customers, will collect amounts in respect of the securitized utility tariff  
517 charges for the benefit and account of such assignee or financing party and will account  
518 for and remit such amounts to or for the account of such assignee or financing party;

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

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

524           i. Any application of the formula-based, true-up mechanism as provided in this  
525 section.

526           (c) Any right that an electrical corporation has in the securitized utility tariff  
527 property before its pledge, sale, or transfer or any other right created under this section  
528 or created in the financing order and assignable under this section or assignable pursuant  
529 to a financing order, is property in the form of a contract right or a chose in action.  
530 Transfer of an interest in securitized utility tariff property to an assignee is enforceable  
531 only upon the later of:

532           a. The issuance of a financing order;

533           b. The assignor having rights in such securitized utility tariff property or the power  
534 to transfer rights in such securitized utility tariff property to an assignee; and

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

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

538

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

544           (d) The priority of a transfer perfected under this section is not impaired by any  
545 later modification of the financing order or securitized utility tariff property or by the  
546 commingling of funds arising from securitized utility tariff property with other funds. Any  
547 other security interest that may apply to those funds, other than a security interest  
548 perfected under this section, is terminated when they are transferred to a segregated  
549 account for the assignee or a financing party. If securitized utility tariff property has been  
550 transferred to an assignee or financing party, any proceeds of that property shall be held  
551 in trust for the assignee or financing party.

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

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

557           b. **A perfected interest or right of an assignee has priority over a conflicting**  
558 **unperfected interest or right of an assignee; and**

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

561           6. **The description of securitized utility tariff property being transferred to an**  
562 **assignee in any sale agreement, purchase agreement, or other transfer agreement, granted**  
563 **or pledged to a pledgee in any security agreement, pledge agreement, or other security**  
564 **document, or indicated in any financing statement is only sufficient if such description or**  
565 **indication refers to the financing order that created the securitized utility tariff property**  
566 **and states that the agreement or financing statement covers all or part of the property**  
567 **described in the financing order. This section applies to all purported transfers of, and all**  
568 **purported grants or liens or security interests in, securitized utility tariff property,**  
569 **regardless of whether the related sale agreement, purchase agreement, other transfer**  
570 **agreement, security agreement, pledge agreement, or other security document was entered**  
571 **into, or any financing statement was filed.**

572           7. **The secretary of state shall maintain any financing statement filed to perfect a**  
573 **sale or other transfer of securitized utility tariff property and any security interest in**  
574 **securitized utility tariff property under this section in the same manner that the secretary**  
575 **of state maintains financing statements filed under the code to perfect a security interest**  
576 **in collateral owned by a transmitting utility. Except as otherwise provided in this section,**  
577 **all financing statements filed pursuant to this section shall be governed by the provisions**  
578 **regarding financing statements and the filing thereof under the uniform commercial code.**  
579 **A security interest in securitized utility tariff property may be perfected only by the filing**  
580 **of a financing statement in accordance with this section and no other method of perfection**  
581 **shall be effective. Notwithstanding any provision of the code to the contrary, a financing**  
582 **statement filed pursuant to this section is effective until a termination statement is filed**  
583 **under the code and no continuation statement need be filed to maintain its effectiveness.**  
584 **A financing statement filed pursuant to this section may indicate that the debtor is a**  
585 **transmitting utility, and without regard to whether the debtor is an electrical corporation,**  
586 **an assignee or otherwise qualifies as a transmitting utility under the code, but the failure**  
587 **to make such indication shall not impair the duration and effectiveness of the financing**  
588 **statement.**

589           **8. The law governing the validity, enforceability, attachment, perfection, priority,**  
590 **and exercise of remedies with respect to the transfer of an interest or right or the pledge**  
591 **or creation of a security interest in any securitized utility tariff property shall be the laws**  
592 **of this state.**

593           **9. Neither the state nor its political subdivisions are liable on any securitized utility**  
594 **tariff bonds, and the bonds are not a debt or a general obligation of the state or any of its**  
595 **political subdivisions, agencies, or instrumentalities, nor are they special obligations or**  
596 **indebtedness of the state or any agency or political subdivision. An issue of securitized**  
597 **utility tariff bonds does not, directly, indirectly, or contingently obligate the state or any**  
598 **agency, political subdivision, or instrumentality of the state to levy any tax or make any**  
599 **appropriation for payment of the securitized utility tariff bonds, other than in their**  
600 **capacity as consumers of electricity. All securitized utility tariff bonds shall contain on the**  
601 **face thereof a statement to the following effect: "Neither the full faith and credit nor the**  
602 **taxing power of the state of Missouri is pledged to the payment of the principal of, or**  
603 **interest on, this bond."**

604           **10. All of the following entities may legally invest any sinking funds, moneys, or**  
605 **other funds in securitized utility tariff bonds:**

606           **(1) Subject to applicable statutory restrictions on state or local investment**  
607 **authority, the state, units of local government, political subdivisions, public bodies, and**  
608 **public officers, except for members of the commission, the commission's technical advisory**  
609 **and other staff, or employees of the office of the public counsel;**

610           **(2) Banks and bankers, savings and loan associations, credit unions, trust**  
611 **companies, savings banks and institutions, investment companies, insurance companies,**  
612 **insurance associations, and other persons carrying on a banking or insurance business;**

613           **(3) Personal representatives, guardians, trustees, and other fiduciaries; and**

614           **(4) All other persons authorized to invest in bonds or other obligations of a similar**  
615 **nature.**

616           **11. (1) The state and its agencies, including the commission, pledge and agree with**  
617 **bondholders, the owners of the securitized utility tariff property, and other financing**  
618 **parties that the state and its agencies will not take any action listed in this subdivision.**  
619 **This subdivision does not preclude limitation or alteration if full compensation is made by**  
620 **law for the full protection of the securitized utility tariff charges collected pursuant to a**  
621 **financing order and of the bondholders and any assignee or financing party entering into**  
622 **a contract with the electrical corporation. The prohibited actions are as follows:**

623           **(a) Alter the provisions of this section, which authorize the commission to create**  
624 **an irrevocable contract right, or chose in action by the issuance of a financing order, to**

625 create securitized utility tariff property, and make the securitized utility tariff charges  
626 imposed by a financing order irrevocable, binding, or nonbypassable charges for all  
627 existing and future retail customers of the electrical corporation except its existing special  
628 contract customers;

629 (b) Take or permit any action that impairs or would impair the value of securitized  
630 utility tariff property or the security for the securitized utility tariff bonds or revises the  
631 securitized utility tariff costs for which recovery is authorized;

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

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

641 (2) Any person or entity that issues securitized utility tariff bonds may include the  
642 language specified in this subsection in the energy transition bonds and related  
643 documentation.

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

646 13. If there is a conflict between this section and any other law regarding the  
647 attachment, assignment, or perfection, or the effect of perfection, or priority of, assignment  
648 or transfer of, or security interest in securitized utility tariff property, this section shall  
649 govern.

650 14. If any provision of this section is held invalid or is invalidated, superseded,  
651 replaced, repealed, or expires for any reason, that occurrence does not affect the validity  
652 of any action allowed under this section which is taken by an electrical corporation, an  
653 assignee, a financing party, a collection agent, or a party to an ancillary agreement and any  
654 such action remains in full force and effect with respect to all securitized utility tariff bonds  
655 issued or authorized in a financing order issued under this section before the date that such  
656 provision is held invalid or is invalidated, superseded, replaced, or repealed or expires for  
657 any reason.

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

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

11           **(2) Generation facilities which produce electric energy from natural gas that enable**  
12 **the electrical corporation to:**

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

15           **(b) Meet requirements of the electrical corporation's regional transmission**  
16 **organization; or**

17           **(c) Serve the objectives of both paragraphs (a) and (b) of this subdivision;**

18           **(3) Energy storage facilities that enable the electrical corporation to:**

19           **(a) Provide electric energy when renewable generation facilities are not generating**  
20 **electric energy in sufficient quantities to meet the needs of the electrical corporation's**  
21 **system;**

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

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

25           **(4) Transmission facilities that enable the delivery of electric energy from**  
26 **renewable generation facilities or energy storage facilities including, but not limited to,**  
27 **interconnection, network upgrades, voltage and reactive power support, and transmission**  
28 **facilities needed to maintain reliability as a result of the retirement of coal-fired generation**  
29 **facilities.**

30           **2. If requested by an electrical corporation in a petition filed concurrently with a**  
31 **petition filed under subsection 2 of section 393.1700 to recover securitized utility tariff costs**  
32 **and notwithstanding any other provision of chapter 386 or 393 to the contrary, including**  
33 **section 393.170 which section shall not apply to the construction of replacement resources**  
34 **as defined in subsection 1 of this section:**

35           **(1) The commission shall approve investment in replacement resources by the**  
36 **electrical corporation of an amount that is approximately equal to the undepreciated**  
37 **investment in the coal-fired electric generating facilities covered by such petition to acquire**  
38 **or build an existing or new renewable energy resource to replace the retired or abandoned**

39 or to be retired or abandoned coal-fired unit. There is no requirement that the  
40 replacement resource's capacity or energy production match the energy or capacity  
41 production of the retired or abandoned coal-fired unit. Such approval shall constitute an  
42 affirmative and binding determination by the commission, to be applied in all subsequent  
43 proceedings respecting the rates of the electrical corporation, that such investment is  
44 prudent and reasonable, that the replacement resource is necessary for the electrical  
45 corporation's provision of electric service to its customers, and that such investment shall  
46 be reflected in the revenue requirement used to set the electrical corporation's base rates,  
47 subject only to the commission's authority to determine that the electrical corporation did  
48 not manage or execute the project in a reasonable and prudent manner in some respect and  
49 its authority to disallow for ratemaking purposes only that portion of the investment that  
50 would not have been incurred had the unreasonable or imprudent management or  
51 execution of the project not occurred; and

52 (2) The commission shall create a deferral mechanism by which the electrical  
53 corporation shall defer, to a regulatory asset or regulatory liability as appropriate, the  
54 changes in the electrical corporation's revenue requirement used to last set its base rates  
55 as specified in this subdivision. Such changes shall be deferred during the period starting  
56 on the date of retirement or abandonment of the subject coal-fired unit and ending when  
57 the electrical corporation is the subject of the petition and base rates are changed as the  
58 result of a general rate proceeding where the rate base cutoff date in that general rate  
59 proceeding occurs on or after the retirement or abandonment. For purposes of this  
60 subdivision, the changes in the electrical corporation's revenue requirement that shall be  
61 deferred shall only consist of:

62 (a) Changes in depreciation expense associated with the retired or abandoned coal-  
63 fired unit;

64 (b) Changes in labor and benefit costs for employees or contractors no longer  
65 employed or retained by the electrical corporation who formerly worked at the retired or  
66 abandoned coal-fired unit, net of severance and relocation costs of the electrical  
67 corporation paid to such employees or contractors;

68 (c) Changes in nonlabor, nonfuel operations, and maintenance costs caused by the  
69 retirement of the coal-fired unit;

70 (d) Depreciation expense on the replacement resources starting with the date it is  
71 recorded to plant in-service on the electrical corporation's books;

72 (e) Labor and benefits costs for employees or contractors who work at the  
73 replacement resources; and

74           **(f) Nonlabor, nonfuel operations, and maintenance costs of the replacement**  
75 **resources.**

76

77 **The base against which changes under paragraphs (a), (b), and (c) of this subdivision shall**  
78 **be the values of each such item used to set the electrical corporation's base electric rates**  
79 **in its last general rate proceeding concluded prior to the time the deferrals are made,**  
80 **provided, if the docketed record in such general rate proceeding does not specify one or**  
81 **more necessary revenue requirement parameters to establish the base for an item because**  
82 **of a "black box" settlement or otherwise, the commission shall, in the docket created by**  
83 **a petition filed under this section and based on the docketed record in such prior general**  
84 **rate proceeding, establish the missing parameters, which shall then be used to accomplish**  
85 **the deferrals. The base with respect to paragraphs (d), (e), and (f) of this subdivision shall**  
86 **be zero.**

87           **(3) The commission shall also create a deferral mechanism by which the electrical**  
88 **corporation shall defer to a regulatory asset the changes in the electrical corporation's**  
89 **revenue requirement last used to set its base rates as specified in this subdivision. Such**  
90 **changes shall be deferred during the period beginning on the date deferrals cease under**  
91 **subdivision (2) of this subsection and ending when the electrical corporation's base rates**  
92 **are next changed as a result of a general rate proceeding. For purposes of this subdivision,**  
93 **such changes in the electrical corporation's revenue requirement that shall be deferred**  
94 **shall only consist of:**

95           **(a) Return on the electrical corporation's undepreciated investment in the coal-**  
96 **fired unit that was retired or abandoned at the electrical corporation's weighted average**  
97 **cost of capital, plus applicable federal, state, and local income or excise taxes, used to**  
98 **establish the electrical corporation's revenue requirement last used to set its base rates;**

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

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

103           **(d) Increase in nonlabor, nonfuel operations, and maintenance costs of the**  
104 **replacement resources.**

105

106 **Notwithstanding the foregoing provisions of this subdivision, deferrals to the regulatory**  
107 **asset created by this subdivision shall cease at the earlier of the date the electrical**  
108 **corporation's base rates are first changed after the replacement resource is recorded to**  
109 **plant in service on the electrical corporation's books where the rate base cutoff date in that**

110 general rate proceeding occurred on or after the retirement or abandonment, or the  
111 effective date of rates from a base rate case that shall be filed no later than one year after  
112 the coal-fired unit was retired or abandoned. If there is more than one replacement  
113 resource for the retired or abandoned coal plant and if one or more such replacement  
114 resource is placed in service prior to the rate base cutoff date in the general rate proceeding  
115 described in subdivision (2) of this subsection, the deferrals called for under this  
116 subdivision shall be reduced as needed to reflect that event. The weighted average cost of  
117 capital to be deferred under paragraph (a) of this subdivision shall be the value used to set  
118 the electrical corporation's base electric rates in its last general rate proceeding concluded  
119 prior to the time the deferrals are made, provided, if the docketed record in such general  
120 rate proceeding does not specify one or more necessary revenue requirement parameters  
121 to establish the base for an item because of a "black box" settlement or otherwise, the  
122 commission shall, in the docket created by a petition filed under this section and based on  
123 the docketed record in such prior general rate proceeding, establish the missing  
124 parameters, which shall then be used to accomplish the deferrals. The base with respect  
125 to paragraphs (b), (c), and (d) of this subdivision shall be zero.

126 (4) It is the intention of this subsection to the maximum extent practicable that  
127 electrical corporation earnings shall not be materially reduced or increased on account of  
128 the retirement or abandonment of the coal-fired unit during the interval between when the  
129 coal-fired unit is retired or abandoned and the date when the electrical corporation's base  
130 rates are changed to reflect the investment in a replacement resource, subject to the  
131 requirement that deferrals under subdivision (3) of this subsection end no later than the  
132 date base rates are reset in a general rate proceeding filed no later than one year after the  
133 coal-fired unit was retired or abandoned.

134 (5) Notwithstanding the provisions of section 393.1400 to the contrary, a  
135 replacement resource shall not constitute "qualifying electric plant" for purposes of section  
136 393.1400, nor shall it constitute a renewable energy resource under section 393.1030,  
137 during the period when a deferral is occurring under subdivision (2) or (3) of this  
138 subsection. In addition, and notwithstanding the provisions of section 393.1400 to the  
139 contrary, deferrals required by this section relating to the electrical corporation's  
140 undepreciated investment in the retired or abandoned coal-fired unit shall not constitute  
141 a change in accumulated depreciation when determining the return deferred on qualifying  
142 electric plant under section 393.1400.

143 (6) Parts of regulatory asset or liability balances created under this section that are  
144 not yet being recovered or returned through rates shall include carrying costs at the  
145 electrical corporation's weighted average cost of capital last used to set its base electric

146 service rates or, if such cost of capital was not specified for the revenue requirement last  
147 used to set such electric service rates at the weighted average cost of capital determined by  
148 the commission under subdivision (3) of this subsection, in each case plus applicable  
149 federal, state, and local income or excise taxes. All regulatory asset or liability balances  
150 from deferrals under this subsection shall be recovered in base rates over a period equal  
151 to the remaining useful life of the replacement resource.

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

161 3. Proceedings on a petition submitted pursuant to this section begin with the filing  
162 of a petition by an electrical corporation under this section that is filed concurrently with  
163 a petition submitted under section 393.1700, and shall be disposed of in accordance with  
164 the requirements of chapters 386 and 393 and the rules of the commission, except as  
165 follows:

166 (1) Within fourteen days after the date the petition is filed, the commission shall  
167 establish a procedural schedule that permits a commission decision no later than one  
168 hundred thirty-five days after the date the petition is filed. Such procedural schedule shall  
169 contain the same milestones and requirements as the procedural schedule adopted in a  
170 proceeding seeking approval of a financing order under section 393.1700 and shall run  
171 concurrently therewith;

172 (2) No later than one hundred thirty-five days after the date the petition is filed, the  
173 commission shall issue an order approving the petition or rejecting the petition. Any  
174 adversely affected party may seek judicial review in accordance with sections 386.500 and  
175 386.510.

393.1710. 1. This section shall apply to each purchased power agreement with a  
2 term commencing on or after August 28, 2021, that the electrical corporation entered into  
3 for the purchase of energy from renewable generation facilities as listed in subdivision (1)  
4 of subsection 1 of section 393.1705 or from energy storage facilities as listed in subdivision  
5 (3) of subsection 1 of section 393.1705. If the term of one or more purchased power  
6 agreements have commenced prior to the rate base cutoff date in one of the electrical

7 corporation's general rate cases, the commission shall, without limiting recoveries outside  
8 the context of a general rate case as contemplated by rate adjustment mechanisms  
9 approved under the provisions of subsection 1 of section 386.266:

10 (1) Include in the revenue requirement used to set base rates in that general rate  
11 case an amount equal to the electrical corporation's prudently incurred costs to purchase  
12 energy, capacity, and renewable energy credits under each such agreement; and

13 (2) Include in the revenue requirement used to set base rates in that general rate  
14 case an additional amount equal to the common equity earnings the electrical corporation  
15 would have received had it, in lieu of entering into each such purchased power agreement,  
16 instead invested in and placed in service, on the date the term of each such purchased  
17 power agreement commenced, a renewable energy resource of the type being operated to  
18 supply energy under each such purchased power agreement with a capacity sufficient to  
19 provide the quantity of energy being purchased under each such purchased power  
20 agreement. In determining the additional amount required by this subdivision, the  
21 commission shall utilize the common equity return on rate base and the common equity  
22 percentage used to determine the revenue requirement in that general rate case, provided,  
23 if the docketed record in such general rate proceeding does not specify one or more  
24 necessary revenue requirement parameters to establish the common equity return on rate  
25 base and the common equity percentage used in that general rate case because of a "black  
26 box" settlement or otherwise, the commission shall, in the docket created by a petition filed  
27 under this section and based on the docketed record in such prior general rate proceeding,  
28 establish the missing parameters, which shall then be used to quantify the common equity  
29 earnings, and shall also include in such revenue requirement applicable federal, state, and  
30 local income and excise taxes associated with such additional amount.

31 2. Subdivisions (1) and (2) of subsection 1 of this section shall continue to be  
32 included in the revenue requirement used to set rates in each subsequent electrical  
33 corporation general rate case where the term of the purchased power agreement remains  
34 ongoing as of the rate base cutoff date in that proceeding. The amount included in the  
35 revenue requirement in subsequent regular rate cases for subdivision (1) of subsection 1  
36 of this section shall be based upon costs as of the rate base cutoff date in that case. Except  
37 as specifically provided for in this subdivision, the amount included in the revenue  
38 requirement in subsequent general rate cases for subdivision (2) of subsection 1 of this  
39 section shall be calculated in the same manner as calculated for subdivision (2) of  
40 subsection 1 of this section in the first general rate case where such amount was determined  
41 and shall not be recalculated in subsequent general rate cases, except that the calculation  
42 in each subsequent general rate case shall utilize the common equity return on rate base

43 and the common equity percentage used to determine the revenue requirement in that  
44 subsequent case; provided, if the docketed record in such subsequent general rate  
45 proceeding does not specify one or more necessary revenue requirement parameters to  
46 establish the common equity return on rate base and the common equity percentage used  
47 in that general rate case because of a "black box" settlement or otherwise, the commission  
48 shall, in the docket created by a subsequent general rate case and based on the docketed  
49 record in such prior general rate proceeding, establish the missing parameters, which shall  
50 then be used to quantify the common equity earnings, and shall account for accumulated  
51 depreciation that would have been accrued had the electric utility invested in and placed  
52 a renewable energy resource in service instead of entering into a purchased power  
53 agreement.

54 3. The phrase "rate base cutoff date" shall have the same meaning as given in  
55 subdivision (4) of subsection 1 of section 393.1400 as such term existed on August 28, 2021.

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

12 2. If the commission fails to issue a determination within one hundred thirty-five  
13 days that a petition for determination of ratemaking principles and treatment is filed, the  
14 ratemaking principles and treatment proposed by the petitioning electrical corporation  
15 shall be deemed to have been approved by the commission.

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

19 4. (1) An electrical corporation with ratemaking principles and treatment  
20 approved by the commission, or deemed to have been approved under subsection 2 of this  
21 section, shall monitor the major factors and circumstances relating to the facility to which  
22 such principles and treatment apply. Such factors and circumstances include, but are not  
23 limited to:

- 24           (a) Terrorist activity or an act of God;
- 25           (b) A significant change in federal or state tax laws;
- 26           (c) A significant change in federal utility laws or regulations or a significant change
- 27 in generally accepted accounting principles;
- 28           (d) An unexpected, extended outage or shutdown of a major generating unit, other
- 29 than any major generating unit shut down due to an extended outage at the time of the
- 30 approval of the ratemaking principles and treatment;
- 31           (e) A significant change in the cost or reliability of power generation technologies;
- 32           (f) A significant change in fuel prices and wholesale electric market conditions;
- 33           (g) A significant change in the cost or effectiveness of emission control technologies;
- 34           (h) A significant change in the price of emission allowances;
- 35           (i) A significant change in the electrical corporation's load forecast;
- 36           (j) A significant change in capital market conditions;
- 37           (k) A significant change in the scope or effective dates of environmental
- 38 regulations; or
- 39           (l) A significant change in federal or state environmental laws.
- 40           (2) If the electrical corporation determines that one or more major factor or
- 41 circumstance has changed in a manner that warrants a change in the approved ratemaking
- 42 principles and treatment, then it shall file a notice in the docket in which the approved
- 43 rate making principles and treatment were established within forty-five days of any such
- 44 determination. In its notification, the electrical corporation shall:
- 45           (a) Explain and specify the changes it contends are appropriate to the ratemaking
- 46 principles and treatment and the reasons for the proposed changes;
- 47           (b) Provide a description of the alternatives that it evaluated and the process that
- 48 it went through in developing its proposed changes; and
- 49           (c) Provide detailed workpapers that support the evaluation and the process
- 50 whereby proposed changes were developed.
- 51           (3) If a party has concerns regarding the proposed changes, that party shall file a
- 52 notice of its concerns within thirty days of the electrical corporation's filing. If the parties
- 53 do not reach agreement on changes to the ratemaking principles and treatment within
- 54 ninety days of the date the electrical corporation filed its notice, whether the previously
- 55 approved ratemaking and treatment will be changed shall be determined by the
- 56 commission. If a party to the docket in which the approved ratemaking principles and
- 57 treatment were approved believes that one or more major factor or circumstance has
- 58 changed in a manner that warrants a change in the approved ratemaking principles and
- 59 treatment and if the electrical corporation does not agree the principles and treatment

60 should be changed, such party shall file a notice in the docket in which the approved  
61 ratemaking principles and treatment were established within forty-five days of any such  
62 determination. In its notification, such party shall:

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

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

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

69 (4) If a party, including the electrical corporation, has concerns regarding the  
70 proposed changes, that party shall file a notice of its concerns within thirty days of the  
71 other party's filing. If the parties do not reach agreement on changes to the ratemaking  
72 principles and treatment within ninety days of the date the notice was filed, whether the  
73 previously approved ratemaking and treatment will be changed shall be determined by the  
74 commission.

75 5. A determination of ratemaking principles and treatment under this section does  
76 not preclude an electrical corporation from also petitioning the commission under either  
77 or both of sections 393.1700 and 393.1705, provided that any costs to which such  
78 ratemaking principles and treatment would have applied in the electrical corporation's  
79 general rate proceedings which become funded by securitized utility tariff bond proceeds  
80 from a securitized utility tariff bond issued under section 393.1700 shall not thereafter be  
81 reflected in the electrical corporation's base rates.

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

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

6 (2) An agricultural lien;

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

8 (4) A consignment;

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

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

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

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

- 15 (1) A statute, regulation, or treaty of the United States preempts this article;
- 16 (2) Another statute of this state expressly governs the creation, perfection, priority, or  
17 enforcement of a security interest created by this state or a governmental unit of this state;
- 18 (3) A statute of another state, a foreign country, or a governmental unit of another state  
19 or a foreign country, other than a statute generally applicable to security interests, expressly  
20 governs creation, perfection, priority, or enforcement of a security interest created by the state,  
21 country, or governmental unit; or
- 22 (4) The rights of a transferee beneficiary or nominated person under a letter of credit are  
23 independent and superior under section 400.5-114.
- 24 (d) This article does not apply to:
- 25 (1) A landlord's lien, other than an agricultural lien;
- 26 (2) A lien, other than an agricultural lien, given by statute or other rule of law for  
27 services or materials, but section 400.9-333 applies with respect to priority of the lien;
- 28 (3) An assignment of a claim for wages, salary, or other compensation of an employee;
- 29 (4) A sale of accounts, chattel paper, payment intangibles, or promissory notes as part  
30 of a sale of the business out of which they arose;
- 31 (5) An assignment of accounts, chattel paper, payment intangibles, or promissory notes  
32 which is for the purpose of collection only;
- 33 (6) An assignment of a right to payment under a contract to an assignee that is also  
34 obligated to perform under the contract;
- 35 (7) An assignment of a single account, payment intangible, or promissory note to an  
36 assignee in full or partial satisfaction of a preexisting indebtedness;
- 37 (8) A transfer of an interest in or an assignment of a claim under a policy of insurance,  
38 other than an assignment by or to a health-care provider of a health-care-insurance receivable and  
39 any subsequent assignment of the right to payment, but sections 400.9-315 and 400.9-322 apply  
40 with respect to proceeds and priorities in proceeds;
- 41 (9) An assignment of a right represented by a judgment, other than a judgment taken on  
42 a right to payment that was collateral;
- 43 (10) A right of recoupment or set-off, but:
- 44 (A) Section 400.9-340 applies with respect to the effectiveness of rights of recoupment  
45 or set-off against deposit accounts; and
- 46 (B) Section 400.9-404 applies with respect to defenses or claims of an account debtor;
- 47 (11) The creation or transfer of an interest in or lien on real property, including a lease  
48 or rents thereunder, except to the extent that provision is made for:
- 49 (A) Liens on real property in sections 400.9-203 and 400.9-308;
- 50 (B) Fixtures in section 400.9-334;

51 (C) Fixture filings in sections 400.9-501, 400.9-502, 400.9-512, 400.9-516 and 400.9-  
52 519; and

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

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

56 (13) An assignment of a deposit account in a consumer transaction, but sections 400.9-  
57 315 and 400.9-322 apply with respect to proceeds and priorities in proceeds; ~~[øø]~~

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

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

62 (16) A transfer by a government or governmental subdivision or agency; **or**

63 **(17) The creation, perfection, priority, or enforcement of any sale, assignment of,**  
64 **pledge of, security interest in, or other transfer of, any interest or right or portion of any**  
65 **interest or right in any energy transition property, as defined in section 393.1700.**

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