

FIRST REGULAR SESSION

[PERFECTED]

HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NO. 734

101ST GENERAL ASSEMBLY

1660H.02P

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 393.106, 393.355, and 400.9-109, RSMo, and to enact in lieu thereof seven new sections relating to ratemaking for electrical corporations.

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

Section A. Sections 393.106, 393.355, and 400.9-109, RSMo, are repealed and seven new sections enacted in lieu thereof, to be known as sections 393.106, 393.355, 393.1700, 393.1705, 393.1710, 393.1715, and 400.9-109, to read as follows:

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

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

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

(3) **"Permanent service"**, electrical service provided through facilities which have been permanently installed on a structure and which are designed to provide electric service for the structure's anticipated needs for the indefinite future, as contrasted with facilities installed temporarily to provide electrical service during construction. Service provided temporarily shall

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.

17 be at the risk of the electrical supplier and shall not be determinative of the rights of the provider
18 or recipient of permanent service;

19 ~~[(2)]~~ (4) "Structure" or "structures", an agricultural, residential, commercial, industrial
20 or other building or a mechanical installation, machinery or apparatus at which retail electric
21 energy is being delivered through a metering device which is located on or adjacent to the
22 structure and connected to the lines of an electrical supplier. Such terms shall include any
23 contiguous or adjacent additions to or expansions of a particular structure. Nothing in this
24 section shall be construed to confer any right on an electric supplier to serve new structures on
25 a particular tract of land because it was serving an existing structure on that tract.

26 2. Once an electrical corporation or joint municipal utility commission, or its predecessor
27 in interest, lawfully commences supplying retail electric energy to a structure through permanent
28 service facilities, it shall have the right to continue serving such structure, and other suppliers
29 of electrical energy shall not have the right to provide service to the structure except as might be
30 otherwise permitted in the context of municipal annexation, pursuant to section 386.800 and
31 section 394.080, or pursuant to a territorial agreement approved under section 394.312. The
32 public service commission, upon application made by an affected party, may order a change of
33 suppliers on the basis that it is in the public interest for a reason other than a rate differential.
34 The commission's jurisdiction under this section is limited to public interest determinations and
35 excludes questions as to the lawfulness of the provision of service, such questions being reserved
36 to courts of competent jurisdiction. Except as provided in this section, nothing contained herein
37 shall affect the rights, privileges or duties of existing corporations pursuant to this chapter.
38 Nothing in this section shall be construed to make lawful any provision of service which was
39 unlawful prior to July 11, 1991. Nothing in this section shall be construed to make unlawful the
40 continued lawful provision of service to any structure which may have had a different supplier
41 in the past, if such a change in supplier was lawful at the time it occurred. However, those
42 customers who had cancelled service with their previous supplier or had requested cancellation
43 by May 1, 1991, shall be eligible to change suppliers as per previous procedures. No customer
44 shall be allowed to change electric suppliers by disconnecting service between May 1, 1991, and
45 July 11, 1991.

46 **3. Notwithstanding the provisions of subsection 2 of this section or any other**
47 **provision of chapters 386 or 394 to the contrary, auxiliary power may be purchased on a**
48 **wholesale basis, under the applicable federal tariffs of a regional transmission organization**
49 **instead of under retail service tariffs filed with the public service commission by an**
50 **electrical corporation, for use at an electric generation facility located in any county of the**
51 **first classification with more than ninety-two thousand but fewer than one hundred one**

52 **thousand inhabitants which commenced commercial operations prior to August 28, 2021,**
53 **and which is operated as an independent power producer.**

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

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

4 (2) "Facility", a:

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

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

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

11 2. Notwithstanding section 393.130 or any other provision of law to the contrary, the
12 public service commission shall have the authority to approve a special rate, outside a general
13 rate proceeding, that is not based on the electrical corporation's cost of service for a facility if:

14 (1) The commission determines, but for the authorization of the special rate the facility
15 would not commence operations, the special rate is in the interest of the state of Missouri when
16 considering the interests of the customers of the electrical corporation serving the facility,
17 considering the incremental cost of serving the facility to receive the special rate, and the
18 interests of the citizens of the state generally in promoting economic development, improving
19 the tax base, providing employment opportunities in the state, and promoting such other benefits
20 to the state as the commission may determine are created by approval of the special rate;

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

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

28 3. Any commission order approving a special rate authorized by this section to provide
29 service to a facility in the manner specified under subsection 4 of this section shall establish, as
30 part of the commission's approval of a special rate, a tracking mechanism to track changes in the
31 net margin experienced by the electrical corporation serving the facility with the tracker to apply
32 retroactively to the date the electrical corporation's base rates were last set in its last general rate
33 proceeding concluded prior to June 14, 2017. The commission shall ensure that the changes in
34 net margin experienced by the electrical corporation between the general rate proceedings as a

35 result of serving the facility are calculated in such a manner that the electrical corporation's net
36 income is neither increased nor decreased. The changes in net margin shall be deferred to a
37 regulatory liability or regulatory asset, as applicable, with the balance of such regulatory asset
38 or liability to be included in the revenue requirement of the electrical corporation in each of its
39 general rate proceedings through an amortization of the balance over a reasonable period until
40 fully returned to or collected from the electrical corporation's customers.

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

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

45 (2) If the facility is located outside the electrical corporation's certificated service
46 territory, the facility shall be treated as if it is in the electrical corporation's certified service
47 territory, subject to a commission-approved rate schedule incorporating the special rate under
48 the contract.

49 5. To receive a special rate, the electrical corporation serving the facility, or facility if
50 the facility is located outside of the electrical corporation's certified service territory, shall file
51 a written application with the commission specifying the requested special rate and any terms
52 or conditions proposed by the facility respecting the requested special rate and provide
53 information regarding how the requested special rate meets the criteria specified in subdivision
54 (1) of subsection 2 of this section. A special rate provided for by this section shall be effective
55 for no longer than ten years from the date such special rate is authorized. The commission may
56 impose such conditions, including but not limited to any conditions in a memorandum of
57 understanding between the facility and the electrical corporation, on the special rate as it deems
58 appropriate so long as it otherwise complies with the provisions of this section.

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

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

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

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

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

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

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

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

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

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

32 (b) Pretax costs that an electrical corporation has previously incurred related to the
33 retirement or abandonment of such an electric generating facility occurring before August
34 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 prudently before, on, or after
71 the effective date of this section of an extraordinary nature which could cause extreme customer
72 rate impacts if reflected in retail customer rates through customary ratemaking including, but not
73 limited to, those related to purchases of fuel or power, inclusive of carrying charges, during
74 anomalous weather events;

75 (14) "Rate base cutoff date", the same as defined in subdivision (4) of subsection 1 of
76 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 electric generating facility or facilities that the electrical
116 corporation has retired or abandoned, or proposes to retire or abandon, prior to the date
117 that all undepreciated investments relating thereto have been recovered through rates and
118 the reasons for undertaking such early retirement or abandonment, or if the electrical

119 corporation is subject to a separate commission order or proceeding relating to such
120 retirement or abandonment as contemplated by subdivision (2) of this subsection, and a
121 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;

140 (g) A proposed future ratemaking process to reconcile any differences between
141 securitized utility tariff costs financed by securitized utility tariff bonds and the final
142 securitized costs incurred by the electrical corporation or assignee provided that any such
143 reconciliation shall not affect the amount of securitized utility tariff bonds or the associated
144 securitized utility tariff charges paid by customers; and

145 (h) Direct testimony and schedules supporting the petition.

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

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

151 (b) An indicator of whether the electrical corporation proposes to finance all or a
152 portion of the qualified extraordinary costs using securitized utility tariff bonds. If the
153 electrical corporation proposes to finance a portion of the costs, the electrical corporation
154 shall identify the specific portion in the petition. By electing not to finance all or any

155 portion of such qualified extraordinary costs using securitized utility tariff bonds, an
156 electrical corporation shall not be deemed to waive its right to reflect recover such costs in
157 its retail rates pursuant to a separate proceeding with the commission;

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

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

161 (e) A comparison between the net present value of the costs to customers that are
162 estimated to result from the issuance of securitized utility tariff bonds and the costs that
163 would result from the application of the customary method of financing and reflecting
164 covering the qualified extraordinary costs in from retail customer rates. The comparison
165 should demonstrate that the issuance of securitized utility tariff bonds and the imposition
166 of securitized utility tariff charges are expected to provide quantifiable benefits to retail
167 customers;

168 (f) A proposed future ratemaking process to reconcile any differences between
169 securitized utility tariff costs financed by securitized utility tariff bonds and the final
170 securitized costs incurred by the electrical corporation or assignee provided that any such
171 reconciliation shall not affect the amount of securitized utility tariff bonds or the associated
172 securitized utility tariff charges paid by customers;

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

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

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

181 b. No later than one hundred thirty-five days after the date the petition is filed, the
182 commission shall issue a financing order approving the petition or an order rejecting the
183 petition; provided, however, that the electrical corporation shall provide notice of intent
184 to file a petition for in proceedings initiated by the first petition for a financing order to the
185 commission no less than 60 days in advance of such filing; and

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

188 (b) A financing order issued by the commission, after a hearing, to an electrical
189 corporation shall include all of the following elements:

- 190 **a. The amount of securitized utility tariff costs to be financed using securitized**
191 **utility tariff bonds and a finding that recovery of such costs is just and reasonable. The**
192 **commission shall describe and estimate the amount of financing costs that may be**
193 **recovered through securitized utility tariff charges and specify the period over which**
194 **securitized utility tariff costs and financing costs may be recovered;**
- 195 **b. A finding that the proposed issuance of securitized utility tariff bonds and the**
196 **imposition and collection of a securitized utility tariff charge are just and reasonable and**
197 **are expected to provide quantifiable benefits to customers as compared to the costs to**
198 **recover the securitized utility tariff costs that would have been incurred absent the issuance**
199 **of securitized utility tariff bonds;**
- 200 **c. A finding that the structuring and pricing of the securitized utility tariff bonds**
201 **are reasonably expected to result in the lowest securitized utility tariff charges consistent**
202 **with market conditions at the time the securitized utility tariff bonds are priced and the**
203 **terms of the financing order;**
- 204 **d. A requirement that, for so long as the securitize utility tariff bonds are**
205 **outstanding and until all financing costs have been paid in full, the imposition and**
206 **collection of energy transition charges authorized under a financing order shall be**
207 **nonbypassable and paid by all existing and future retail customers receiving electrical**
208 **service from the electrical corporation or its successors or assignees under commission-**
209 **approved rate schedules, except for customers receiving electrical service under special**
210 **contracts on August 28, 2021, even if a retail customer elects to purchase electricity from**
211 **an alternative electric supplier following a fundamental change in regulation of public**
212 **utilities in this state;**
- 213 **e. A formula-based, true-up mechanism for making, at least annually, expeditious**
214 **periodic adjustments in the securitized utility tariff charges that customers are required**
215 **to pay pursuant to the financing order and for making any adjustments that are necessary**
216 **to correct for any overcollection or undercollection of the charges or to otherwise ensure**
217 **the timely payment of securitized utility tariff bonds and financing costs and other**
218 **required amounts and charges payable in connection with the energy transition bonds;**
- 219 **f. The securitized utility tariff property that is, or shall be, created in favor of an**
220 **electrical corporation or its successors or assignees and that shall be used to pay or secure**
221 **energy transition bonds and all financing costs;**
- 222 **g. The degree of flexibility to be afforded to the electrical corporation in**
223 **establishing the terms and conditions of the securitized utility tariff bonds, including, but**
224 **not limited to, repayment schedules, expected interest rates, and other financing costs;**

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

232 **i. A requirement that, after the final terms of an issuance of securitized utility tariff**
233 **bonds have been established and before the issuance of securitized utility tariff bonds, the**
234 **electrical corporation determines the resulting initial securitized utility tariff charge in**
235 **accordance with the financing order and that such initial securitized utility tariff charge**
236 **be final and effective upon the issuance of such securitized utility tariff bonds without**
237 **further commission action so long as the securitized utility tariff charge is consistent with**
238 **the financing order;**

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

243 **k. A statement specifying a future rate-making process to reconcile any differences**
244 **between the actual securitized utility tariff costs financed by securitized utility tariff bonds**
245 **and the final securitized utility tariff costs incurred by the electrical corporation or**
246 **assignee provided that any such reconciliation shall not affect the amount of securitized**
247 **utility tariff bonds or the associated securitized utility tariff charges paid by customers;**

248 **l. A procedure that shall allow the electrical corporation to earn a return, at the**
249 **cost of capital authorized from time to time by the commission in the electrical**
250 **corporation's rate proceedings, on any moneys advanced by the electrical corporation to**
251 **fund reserves, if any, or capital accounts established under the terms of any indenture,**
252 **ancillary agreement, or other financing documents pertaining to the securitized utility**
253 **tariff bonds;**

254 **m. In a financing order granting authorization to securitize energy transition costs**
255 **or in a financing order granting authorization to securitize qualified extraordinary costs**
256 **that include retired or abandoned facility costs, a procedure for the treatment of**
257 **accumulated deferred income taxes and excess deferred income taxes in connection with**
258 **the retired or abandoned or to be retired or abandoned electric generating facility, or in**
259 **connection with retired or abandoned facilities included in qualified extraordinary costs.**
260 **The accumulated deferred income taxes, including excess deferred income taxes, shall be**

261 excluded from rate base in future general rate cases and the net tax benefits relating to
262 amounts that will be recovered through the issuance of securitized utility tariff bonds shall
263 be credited to retail customers by reducing the amount of such securitized utility tariff
264 bonds that would otherwise be issued. The customer credit shall include the net present
265 value of the tax benefits, calculated using a discount rate equal to the expected interest rate
266 of the securitized utility tariff bonds, for the estimated accumulated and excess deferred
267 income taxes at the time of securitization including timing differences created by the
268 issuance of securitized utility tariff bonds amortized over the period of the bonds
269 multiplied by the expected interest rate on such securitized utility tariff bonds;

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

273 o. Any other conditions that the commission considers appropriate and that are
274 authorized by this section.

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

280 (d) If the commission issues a financing order, the electrical corporation shall file
281 with the commission at least annually a petition or a letter applying the formula-based,
282 true-up mechanism and, based on estimates of consumption for each rate class and other
283 mathematical factors, request administrative approval to make the applicable adjustments.
284 The review of the filing shall be limited to determining whether there are any mathematical
285 or clerical errors in the application of the formula-based, true-up mechanism relating to
286 the appropriate amount of any overcollection or undercollection of securitized utility tariff
287 charges and the amount of an adjustment. The adjustments shall ensure the recovery of
288 revenues sufficient to provide for the payment of principal, interest, acquisition,
289 defeasance, financing costs, or redemption premium and other fees, costs, and charges in
290 respect of securitized utility tariff bonds approved under the financing order. Within
291 thirty days after receiving an electrical corporation's request pursuant to this paragraph,
292 the commission shall either approve the request or inform the electrical corporation of any
293 mathematical or clerical errors in its calculation. If the commission informs the electrical
294 corporation of mathematical or clerical errors in its calculation, the electrical corporation
295 may correct its error and refile its request. The time frames previously described in this
296 paragraph shall apply to a refiled request.

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

307 b. The commission, in a financing order and subject to the issuance advice letter
308 process under sub-paragraph c of this paragraph, shall afford the electrical corporation
309 flexibility in establishing the terms and conditions for the securitized utility tariff bonds
310 to accommodate changes in market conditions, including repayment schedules, interest
311 rates, financing costs, collateral requirements, required debt service and other reserves and
312 the ability of the electrical corporation, at its option, to effect a series of issuances of
313 securitized utility tariff bonds and correlated assignments, sales, pledges or other transfers
314 of securitized utility tariff property. Any changes made under this sub-paragraph to terms
315 and conditions for the securitized utility tariff bonds shall be in conformance with the
316 financing order.

317 c. As the actual structure and pricing of the securitized utility tariff bonds will be
318 unknown at the time the financing order is issued, the electrical corporation that intends
319 to cause the issuance of such bonds shall provide to the commission, prior to the issuance
320 of each series of bonds, an issuance advice letter following the determination of the final
321 terms of such series of bonds no later than one day after the pricing of the securitized
322 utility tariff bonds. The commission shall have the authority to designate a representative
323 from commission staff, who may be advised by a financial adviser contracted with the
324 commission, to observe all facets of the process undertaken by the electrical corporation
325 to place the securitized utility tariff bonds to market so the commission's representative
326 can be prepared, if requested, to provide the commission with an opinion on the
327 reasonableness of the pricing, terms and conditions of the securitized utility tariff bonds
328 on an expedited basis. The form of such issuance advice letter shall be included in the
329 financing order and shall indicate the final structure of the securitized utility tariff bonds
330 and provide the best available estimate of total ongoing financing costs. The issuance
331 advice letter shall report the initial securitized utility tariff charges and other information
332 specific to the securitized utility tariff bonds to be issued, as the commission may require.

333 **Unless an earlier date is specified in the financing order, the electrical corporation may**
334 **proceed with the issuance of the securitized utility tariff bonds unless, prior to noon on the**
335 **fourth business day after the commission receives the issuance advice letter, the**
336 **commission issues a disapproval letter directing that the bonds as proposed shall not be**
337 **issued and the basis for that disapproval. The financing order may provide such**
338 **additional provisions relating to the issuance advice letter process as the commission**
339 **considers appropriate and as are authorized by this section.**

340 **(4) (a) In performing the responsibilities of this section in connection with the**
341 **issuance of a financing order, the commission shall undertake due diligence as it deems**
342 **appropriate prior to the issuance of the financing order pursuant to which the commission**
343 **may request additional information from the electrical corporation and may engage a**
344 **financial advisor and counsel as the commission deems necessary. Any financial advisor**
345 **or counsel engaged by the commission shall have a fiduciary duty with respect to the**
346 **proposed issuance of securitized utility bonds solely to the commission. All expenses**
347 **associated with such services shall be included as part of the financing costs of the**
348 **securitized utility tariff bonds and shall be included in the securitized utility tariff charge.**

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

354 **(5) At the request of an electrical corporation, the commission may commence a**
355 **proceeding and issue a subsequent financing order that provides for refinancing, retiring,**
356 **or refunding securitized utility tariff bonds issued pursuant to the original financing order**
357 **if the commission finds that the subsequent financing order satisfies all of the criteria**
358 **specified in this section for a financing order. Effective upon retirement of the refunded**
359 **securitized utility tariff bonds and the issuance of new securitized utility tariff bonds, the**
360 **commission shall adjust the related energy transition charges accordingly.**

361 **(6) (a) A financing order remains in effect and securitized utility tariff property**
362 **under the financing order continues to exist until securitized utility tariff bonds issued**
363 **pursuant to the financing order have been paid in full or defeased and, in each case, all**
364 **commission-approved financing costs of such securitized utility tariff bonds have been**
365 **recovered in full.**

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

369 **3. (1) The commission may not, in exercising its powers and carrying out its duties**
370 **regarding any matter within its authority, consider the securitized utility tariff bonds**
371 **issued pursuant to a financing order to be the debt of the electrical corporation other than**
372 **for federal and state income tax purposes, consider the securitized utility tariff charges**
373 **paid under the financing order to be the revenue of the electrical corporation for any**
374 **purpose, consider the securitized utility tariff costs or financing costs specified in the**
375 **financing order to be the costs of the electrical corporation nor may the commission**
376 **determine any action taken by an electrical corporation which is consistent with the**
377 **financing order to be unjust or unreasonable, and section 386.300 shall not apply to the**
378 **issuance of securitized utility tariff bonds.**

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

383 **(3) No electrical corporation is required to file a petition for a financing order**
384 **under this section or otherwise utilize this section. An electrical corporation's decision not**
385 **to file a petition for a financing order under this section or otherwise utilize this section**
386 **shall not be admissible in any commission proceeding, nor shall it be otherwise utilized or**
387 **relied on by the commission in any proceeding respecting the electrical corporation's rates**
388 **or its accounting, including, without limitation, any general rate proceeding, fuel**
389 **adjustment clause docket, or proceedings relating to accounting authority, whether**
390 **initiated by the electrical corporation or otherwise. The commission may not order or**
391 **otherwise directly or indirectly require an electrical corporation to use securitized utility**
392 **tariff bonds to recover securitized utility tariff costs or to finance any project, addition,**
393 **plant, facility, extension, capital improvement, equipment, or any other expenditure. After**
394 **the issuance of a financing order, the electrical corporation retains sole discretion**
395 **regarding whether to cause the securitized utility tariff bonds to be issued, including the**
396 **right to defer or postpone such sale, assignment, transfer, or issuance. Nothing shall**
397 **prevent the electrical corporation from abandoning the issuance of securitized utility tariff**
398 **bonds under the financing order by filing with the commission a statement of**
399 **abandonment and the reasons therefore; provided, that the electrical corporation's**
400 **abandonment decision shall not be deemed imprudent because of the potential availability**
401 **of securitized utility tariff bond financing.**

402 **(4) The commission may not refuse to allow an electrical corporation to recover**
403 **securitized utility tariff costs in an otherwise permissible fashion, or refuse or condition**
404 **authorization or approval of the issuance and sale by an electrical corporation of securities**

405 or the assumption by the electrical corporation of liabilities or obligations, because of the
406 potential availability of securitized utility tariff bond financing.

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

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

415 4. The electric bills of an electrical corporation that has obtained a financing order
416 and caused securitized utility tariff bonds to be issued shall comply with the provisions of
417 this subsection; however, the failure of an electrical corporation to comply with this
418 subsection does not invalidate, impair, or affect any financing order, securitized utility
419 tariff property, securitized utility tariff charge, or securitized utility tariff bonds. The
420 electrical corporation shall do the following:

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

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

430 5. (1) (a) All securitized utility tariff property that is specified in a financing order
431 constitutes an existing, present, intangible property right or interest therein,
432 notwithstanding that the imposition and collection of securitized utility tariff charges
433 depends on the electrical corporation, to which the financing order is issued, performing
434 its servicing functions relating to the collection of energy transition charges and on future
435 electricity consumption. The property exists:

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

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

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

445 **(c) All or any portion of securitized utility tariff property specified in a financing**
446 **order issued to an electrical corporation may be transferred, sold, conveyed, or assigned**
447 **to a successor or assignee that is wholly owned, directly or indirectly, by the electrical**
448 **corporation and created for the limited purpose of acquiring, owning, or administering**
449 **securitized utility tariff property or issuing securitized utility tariff bonds under the**
450 **financing order. All or any portion of securitized utility tariff property may be pledged**
451 **to secure securitized utility tariff bonds issued pursuant to the financing order, amounts**
452 **payable to financing parties and to counterparties under any ancillary agreements, and**
453 **other financing costs. Any transfer, sale, conveyance, assignment, grant of a security**
454 **interest in or pledge of securitized utility tariff property by an electrical corporation, or an**
455 **affiliate of the electrical corporation, to an assignee, to the extent previously authorized in**
456 **a financing order, does not require the prior consent and approval of the commission.**

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

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

471 **(f) Any successor to an electrical corporation, whether pursuant to any**
472 **reorganization, bankruptcy, or other insolvency proceeding or whether pursuant to any**
473 **merger or acquisition, sale, or other business combination, or transfer by operation of law,**
474 **as a result of electrical corporation restructuring or otherwise, shall perform and satisfy**
475 **all obligations of, and have the same rights under a financing order as, the electrical**
476 **corporation under the financing order in the same manner and to the same extent as the**

477 electrical corporation, including collecting and paying to the person entitled to receive the
478 revenues, collections, payments, or proceeds of the securitized utility tariff property.
479 Nothing in this section is intended to limit or impair any authority of the commission
480 concerning the transfer or succession of interests of public utilities.

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

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

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

491 a. The financing order is issued;

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

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

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

497

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

501 (c) Upon the filing of a financing statement with the office of the secretary of state
502 as provided in this section, a security interest in securitized utility tariff property shall be
503 perfected against all parties having claims of any kind in tort, contract, or otherwise
504 against the person granting the security interest, and regardless of whether the parties
505 have notice of the security interest. Without limiting the foregoing, upon such filing, a
506 security interest in securitized utility tariff property shall be perfected against all claims
507 of lien creditors, and shall have priority over all competing security interests and other
508 claims other than any security interest previously perfected in accordance with this section.

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

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

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

520 **(f) If a default occurs under the securitized utility tariff bonds that are secured by**
521 **a security interest in securitized utility tariff property, the financing parties or their**
522 **representatives may exercise the rights and remedies available to a second party under the**
523 **uniform commercial code, including all rights and remedies available. The commission**
524 **may also order amounts arising from securitized utility tariff charges to be transferred to**
525 **a separate account for the financing parties' benefit, to which their lien and security**
526 **interest shall apply. On application by or on behalf of the financing parties, the circuit**
527 **court for the county or city in which the electrical corporation's headquarters is located**
528 **shall order the sequestration and payment to them of revenues arising from the securitized**
529 **utility tariff charges.**

530 **(3) (a) Any sale, assignment, or other transfer of securitized utility tariff property**
531 **shall be an absolute transfer and true sale of, and not a pledge of or secured transaction**
532 **relating to, the seller's right, title, and interest in, to, and under the energy transition**
533 **property if the documents governing the transaction expressly state that the transaction**
534 **is a sale or other absolute transfer other than for federal and state income tax purposes.**
535 **For all purposes other than federal and state income tax purposes, the parties'**
536 **characterization of a transaction as a sale of an interest in securitized utility tariff property**
537 **shall be conclusive that the transaction is a true sale and that ownership has passed to the**
538 **party characterized as the purchaser, regardless of whether the purchaser has possession**
539 **of any documents evidencing or pertaining to the interest. A sale or similar outright**
540 **transfer of an interest in securitized utility tariff property may occur only when all of the**
541 **following have occurred:**

542 **a. The financing order creating the securitized utility tariff property has become**
543 **effective;**

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

546 **c. Value is received for the securitized utility tariff property.**

547

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

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

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

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

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

562 d. Any indemnification rights, obligations, or repurchase rights made or provided
563 by the seller;

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

566 f. The transferor acting as the servicer of the securitized utility tariff charges or the
567 existence of any contract that authorizes or requires the electrical corporation, to the extent
568 that any interest in securitized utility tariff property is sold or assigned, to contract with
569 the assignee or any financing party that it will continue to operate its system to provide
570 service to its customers, will collect amounts in respect of the securitized utility tariff
571 charges for the benefit and account of such assignee or financing party and will account
572 for and remit such amounts to or for the account of such assignee or financing party;

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

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

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

580 (c) Any right that an electrical corporation has in the securitized utility tariff
581 property before its pledge, sale, or transfer or any other right created under this section
582 or created in the financing order and assignable under this section or assignable pursuant
583 to a financing order, is property in the form of a contract right or a chose in action.

584 **Transfer of an interest in securitized utility tariff property to an assignee is enforceable**
585 **only upon the later of:**

586 **a. The issuance of a financing order;**

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

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

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

592

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

598 **(d) The priority of a transfer perfected under this section is not impaired by any**
599 **later modification of the financing order or securitized utility tariff property or by the**
600 **commingling of funds arising from securitized utility tariff property with other funds. Any**
601 **other security interest that may apply to those funds, other than a security interest**
602 **perfected under this section, is terminated when they are transferred to a segregated**
603 **account for the assignee or a financing party. If securitized utility tariff property has been**
604 **transferred to an assignee or financing party, any proceeds of that property shall be held**
605 **in trust for the assignee or financing party.**

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

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

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

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

615 **6. The description of securitized utility tariff property being transferred to an**
616 **assignee in any sale agreement, purchase agreement, or other transfer agreement, granted**
617 **or pledged to a pledgee in any security agreement, pledge agreement, or other security**
618 **document, or indicated in any financing statement is only sufficient if such description or**
619 **indication refers to the financing order that created the securitized utility tariff property**

620 and states that the agreement or financing statement covers all or part of the property
621 described in the financing order. This section applies to all purported transfers of, and all
622 purported grants or liens or security interests in, securitized utility tariff property,
623 regardless of whether the related sale agreement, purchase agreement, other transfer
624 agreement, security agreement, pledge agreement, or other security document was entered
625 into, or any financing statement was filed.

626 7. The secretary of state shall maintain any financing statement filed to perfect a
627 sale or other transfer of securitized utility tariff property and any security interest in
628 securitized utility tariff property under this section in the same manner that the secretary
629 of state maintains financing statements filed under the code to perfect a security interest
630 in collateral owned by a transmitting utility. Except as otherwise provided in this section,
631 all financing statements filed pursuant to this section shall be governed by the provisions
632 regarding financing statements and the filing thereof under the uniform commercial code.
633 A security interest in securitized utility tariff property may be perfected only by the filing
634 of a financing statement in accordance with this section and no other method of perfection
635 shall be effective. Notwithstanding any provision of the code to the contrary, a financing
636 statement filed pursuant to this section is effective until a termination statement is filed
637 under the code and no continuation statement need be filed to maintain its effectiveness.
638 A financing statement filed pursuant to this section may indicate that the debtor is a
639 transmitting utility, and without regard to whether the debtor is an electrical corporation,
640 an assignee or otherwise qualifies as a transmitting utility under the code, but the failure
641 to make such indication shall not impair the duration and effectiveness of the financing
642 statement.

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

647 9. Neither the state nor its political subdivisions are liable on any securitized utility
648 tariff bonds, and the bonds are not a debt or a general obligation of the state or any of its
649 political subdivisions, agencies, or instrumentalities, nor are they special obligations or
650 indebtedness of the state or any agency or political subdivision. An issue of securitized
651 utility tariff bonds does not, directly, indirectly, or contingently obligate the state or any
652 agency, political subdivision, or instrumentality of the state to levy any tax or make any
653 appropriation for payment of the securitized utility tariff bonds, other than in their
654 capacity as consumers of electricity. All securitized utility tariff bonds shall contain on the
655 face thereof a statement to the following effect: "Neither the full faith and credit nor the

656 **taxing power of the state of Missouri is pledged to the payment of the principal of, or**
657 **interest on, this bond."**

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

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

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

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

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

670 **11. (1) The state and its agencies, including the commission, pledge and agree with**
671 **bondholders, the owners of the securitized utility tariff property, and other financing**
672 **parties that the state and its agencies will not take any action listed in this subdivision.**
673 **This subdivision does not preclude limitation or alteration if full compensation is made by**
674 **law for the full protection of the securitized utility tariff charges collected pursuant to a**
675 **financing order and of the bondholders and any assignee or financing party entering into**
676 **a contract with the electrical corporation. The prohibited actions are as follows:**

677 **(a) Alter the provisions of this section, which authorize the commission to create**
678 **an irrevocable contract right, or chose in action by the issuance of a financing order, to**
679 **create securitized utility tariff property, and make the securitized utility tariff charges**
680 **imposed by a financing order irrevocable, binding, or nonbypassable charges for all**
681 **existing and future retail customers of the electrical corporation except its existing special**
682 **contract customers;**

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

686 **(c) In any way impair the rights and remedies of the bondholders, assignees, and**
687 **other financing parties; and**

688 **(d) Except for changes made pursuant to the formula-based, true-up mechanism**
689 **authorized under this section, reduce, alter, or impair securitized utility tariff charges that**
690 **are to be imposed, billed, charged, collected, and remitted for the benefit of the**
691 **bondholders, any assignee, and any other financing parties until any and all principal,**

692 interest, premium, financing costs and other fees, expenses, or charges incurred, and any
693 contracts to be performed, in connection with the related securitized utility tariff bonds
694 have been paid and performed in full.

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

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

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

704 14. If any provision of this section is held invalid or is invalidated, superseded,
705 replaced, repealed, or expires for any reason, that occurrence does not affect the validity
706 of any action allowed under this section which is taken by an electrical corporation, an
707 assignee, a financing party, a collection agent, or a party to an ancillary agreement and any
708 such action remains in full force and effect with respect to all securitized utility tariff bonds
709 issued or authorized in a financing order issued under this section before the date that such
710 provision is held invalid or is invalidated, superseded, replaced, or repealed or expires for
711 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) Unless the commission has, prior to August 28, 2021, issued an order or orders
- 36 acknowledging retirement by an electrical corporation of specific electric generating
- 37 facilities and an order or orders authorizing construction by such electrical corporation
- 38 of generating facilities in place of such retired electric generating facilities, the commission
- 39 shall approve investment in replacement resources by the electrical corporation of an
- 40 amount that is approximately equal to the undepreciated investment in the electric
- 41 generating facilities covered by such petition to acquire or build an existing or new
- 42 renewable energy resource to replace the retired or abandoned or to be retired or
- 43 abandoned unit. There is no requirement that the replacement resource's capacity or
- 44 energy production match the energy or capacity production of the retired or abandoned
- 45 unit. Such approval shall constitute an affirmative and binding determination by the
- 46 commission, to be applied in all subsequent proceedings respecting the rates of the
- 47 electrical corporation, that such investment is prudent and reasonable, that the
- 48 replacement resource is necessary for the electrical corporation's provision of electric
- 49 service to its customers, and that such investment shall be reflected in the revenue
- 50 requirement used to set the electrical corporation's base rates, subject only to the
- 51 commission's authority to determine that the electrical corporation did not manage or
- 52 execute the project in a reasonable and prudent manner in some respect and its authority

53 to disallow for ratemaking purposes only that portion of the investment that would not
54 have been incurred had the unreasonable or imprudent management or execution of the
55 project not occurred; and

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

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

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

71 (c) Changes in nonlabor, nonfuel operations, and maintenance costs caused by the
72 retirement of the unit;

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

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

77 (f) Nonlabor, nonfuel operations, and maintenance costs of the replacement
78 resources.

79

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

88 the deferrals. The base with respect to paragraphs (d), (e), and (f) of this subdivision shall
89 be zero.

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

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

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

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

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

108

109 Notwithstanding the foregoing provisions of this subdivision, deferrals to the regulatory
110 asset created by this subdivision shall cease at the earlier of the date the electrical
111 corporation's base rates are first changed after the replacement resource is recorded to
112 plant in service on the electrical corporation's books where the rate base cutoff date in that
113 general rate proceeding occurred on or after the retirement or abandonment, or the
114 effective date of rates from a base rate case that shall be filed no later than one year after
115 the unit was retired or abandoned. If there is more than one replacement resource for the
116 retired or abandoned plant and if one or more such replacement resource is placed in
117 service prior to the rate base cutoff date in the general rate proceeding described in
118 subdivision (2) of this subsection, the deferrals called for under this subdivision shall be
119 reduced as needed to reflect that event. The weighted average cost of capital to be deferred
120 under paragraph (a) of this subdivision shall be the value used to set the electrical
121 corporation's base electric rates in its last general rate proceeding concluded prior to the
122 time the deferrals are made, provided, if the docketed record in such general rate
123 proceeding does not specify one or more necessary revenue requirement parameters to

124 establish the base for an item because of a "black box" settlement or otherwise, the
125 commission shall, in the docket created by a petition filed under this section and based on
126 the docketed record in such prior general rate proceeding, establish the missing
127 parameters, which shall then be used to accomplish the deferrals. The base with respect
128 to paragraphs (b), (c), and (d) of this subdivision shall be zero.

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

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

146 (6) Parts of regulatory asset or liability balances created under this section that are
147 not yet being recovered or returned through rates shall include carrying costs at the
148 electrical corporation's weighted average cost of capital last used to set its base electric
149 service rates or, if such cost of capital was not specified for the revenue requirement last
150 used to set such electric service rates at the weighted average cost of capital determined by
151 the commission under subdivision (3) of this subsection, in each case plus applicable
152 federal, state, and local income or excise taxes. All regulatory asset or liability balances
153 from deferrals under this subsection shall be recovered in base rates over a period equal
154 to the remaining useful life of the replacement resource.

155 (7) In each general rate proceeding concluded after a deferral commences under
156 subdivision (2) or (3) of this subsection, the regulatory asset or liability balances arising
157 from such deferrals, as of the rate base cutoff date, shall be included in the electrical
158 corporation's rate base without any offset, reduction, or adjustment based upon
159 consideration of any other factor, other than to reflect any prudence disallowances ordered

160 by the commission, with the regulatory asset balances arising from such deferrals that
161 occur after the rate base cutoff date to be included in rate base in the next general rate
162 proceeding. The provisions of this section shall not be construed to affect existing law
163 respecting burdens of production and persuasion in general rate proceedings.

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

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

175 **(2) No later than one hundred eighty-five days after the date the petition is filed,**
176 **the commission shall issue an order approving the petition or rejecting the petition. Any**
177 **adversely affected party may seek judicial review in accordance with sections 386.500 and**
178 **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 ratemaking 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 rate making 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.**

82 **6. The commission may promulgate rules to implement the provisions of sections**
83 **393.1700 to 393.1715. Any rule or portion of a rule, as that term is defined in section**
84 **536.010, that is created under the authority delegated in this section shall become effective**
85 **only if it complies with and is subject to all of the provisions of chapter 536 and, if**
86 **applicable, section 536.028. This section and chapter 536 are nonseverable and if any of**
87 **the powers vested with the general assembly pursuant to chapter 536 to review, to delay**
88 **the effective date, or to disapprove and annul a rule are subsequently held**
89 **unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted**
90 **after August 28, 2021, shall be invalid and void.**

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

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

5 (2) An agricultural lien;

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

7 (4) A consignment;

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

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

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

14 (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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