

SECOND REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NO. 1746

102ND GENERAL ASSEMBLY

3399S.04C

KRISTINA MARTIN, Secretary

AN ACT

To repeal sections 67.2677, 67.5122, 71.340, 204.300, 204.610, 226.220, 386.572, 386.895, 393.150, 393.320, 393.1030, 393.1400, 393.1506, 393.1700, 523.010, and 640.144, RSMo, and to enact in lieu thereof nineteen new sections relating to utilities.

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

Section A. Sections 67.2677, 67.5122, 71.340, 204.300, 204.610, 226.220, 386.572, 386.895, 393.150, 393.320, 393.1030, 393.1400, 393.1506, 393.1700, 523.010, and 640.144, RSMo, are repealed and nineteen new sections enacted in lieu thereof, to be known as sections 67.2677, 67.5122, 71.340, 204.300, 204.610, 226.220, 226.224, 386.572, 386.895, 393.150, 393.320, 393.401, 393.1030, 393.1400, 393.1506, 393.1645, 393.1700, 523.010, and 640.144, to read as follows:

67.2677. [1.] For purposes of sections 67.2675 to 67.2714, the following terms mean:

- (1) "Cable operator", as defined in 47 U.S.C. Section 522(5);
- (2) "Cable system", as defined in 47 U.S.C. Section 522(7);
- (3) "Franchise", an initial authorization, or renewal of an authorization, issued by a franchising entity, regardless of whether the authorization is designated as a franchise, permit, license, resolution, contract,

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

11 certificate, agreement, or otherwise, that authorizes the
12 provision of video service and any affiliated or subsidiary
13 agreements related to such authorization;

14 (4) "Franchise area", the total geographic area
15 authorized to be served by an incumbent cable operator in a
16 political subdivision as of August 28, 2007, or, in the case
17 of an incumbent local exchange carrier, as such term is
18 defined in 47 U.S.C. Section 251(h), or affiliate thereof,
19 the area within such political subdivision in which such
20 carrier provides telephone exchange service;

21 (5) "Franchise entity", a political subdivision that
22 was entitled to require franchises and impose fees on cable
23 operators on the day before the effective date of sections
24 67.2675 to 67.2714, provided that only one political
25 subdivision may be a franchise entity with regard to a
26 geographic area;

27 (6) (a) "Gross revenues", limited to amounts billed
28 to video service subscribers for the following:

29 a. Recurring charges for video service; and
30 b. Event-based charges for video service, including
31 but not limited to pay-per-view and video-on-demand charges;

32 (b) "Gross revenues" do not include:

33 a. Discounts, refunds, and other price adjustments
34 that reduce the amount of compensation received by an entity
35 holding a video service authorization;

36 b. Uncollectibles;

37 c. Late payment fees;

38 d. Amounts billed to video service subscribers to
39 recover taxes, fees, or surcharges imposed on video service
40 subscribers or video service providers in connection with
41 the provision of video services, including the video service
42 provider fee authorized by this section;

- 43 e. Fees or other contributions for PEG or I-Net
44 support;
- 45 f. Charges for services other than video service that
46 are aggregated or bundled with amounts billed to video
47 service subscribers, if the entity holding a video service
48 authorization reasonably can identify such charges on books
49 and records kept in the regular course of business or by
50 other reasonable means;
- 51 g. Rental of set top boxes, modems, or other equipment
52 used to provide or facilitate the provision of video service;
- 53 h. Service charges related to the provision of video
54 service including, but not limited to, activation,
55 installation, repair, and maintenance charges;
- 56 i. Administrative charges related to the provision of
57 video service including, but not limited to, service order
58 and service termination charges; or
- 59 j. A pro rata portion of all revenue derived from
60 advertising, less refunds, rebates, or discounts;
- 61 (c) Except with respect to the exclusion of the video
62 service provider fee, gross revenues shall be computed in
63 accordance with generally accepted accounting principles;
- 64 (7) "Household", an apartment, a house, a mobile home,
65 or any other structure or part of a structure intended for
66 residential occupancy as separate living quarters;
- 67 (8) "Incumbent cable operator", the cable service
68 provider serving cable subscribers in a particular franchise
69 area on September 1, 2007;
- 70 (9) "Low-income household", a household with an
71 average annual household income of less than thirty-five
72 thousand dollars;

73 (10) "Person", an individual, partnership,
74 association, organization, corporation, trust, or government
75 entity;

76 (11) "Political subdivision", a city, town, village,
77 county;

78 (12) "Public right-of-way", the area of real property
79 in which a political subdivision has a dedicated or acquired
80 right-of-way interest in the real property, including the
81 area on, below, or above the present and future streets,
82 alleys, avenues, roads, highways, parkways, or boulevards
83 dedicated or acquired as right-of-way and utility easements
84 dedicated for compatible uses. The term does not include
85 the airwaves above a right-of-way with regard to wireless
86 telecommunications or other nonwire telecommunications or
87 broadcast service;

88 (13) "Video programming", programming provided by, or
89 generally considered comparable to programming provided by,
90 a television broadcast station, as set forth in 47 U.S.C.
91 Section 522(20);

92 (14) "Video service", the provision of video
93 programming **by a video service provider** provided through
94 wireline facilities located at least in part in the public
95 right-of-way without regard to delivery technology,
96 including internet protocol technology whether provided as
97 part of a tier, on demand, or **on** a per-channel basis. This
98 definition includes cable service as defined by 47 U.S.C.
99 Section 522(6), but does not include any video programming
100 provided by a commercial mobile service provider defined in
101 47 U.S.C. Section 332(d), or any video programming [provided
102 solely as part of and] **accessed** via a service that enables
103 users to access content, information, electronic mail, or

104 other services offered over the [public] internet, **including**
105 **streaming content;**

106 (15) "Video service authorization", the right of a
107 video service provider or an incumbent cable operator that
108 secures permission from the public service commission
109 pursuant to sections 67.2675 to 67.2714, to offer video
110 service to subscribers in a political subdivision;

111 (16) "Video service network", wireline facilities, or
112 any component thereof, located at least in part in the
113 public right-of-way that deliver video service, without
114 regard to delivery technology, including internet protocol
115 technology or any successor technology. The term video
116 service network shall include cable systems;

117 (17) "Video service provider", any person that
118 distributes video service through a video service network
119 pursuant to a video service authorization;

120 (18) "Video service provider fee", the fee imposed
121 under section 67.2689.

122 [2. The repeal and reenactment of this section shall
123 become effective August 28, 2023.]

67.5122. Sections 67.5110 to 67.5122 shall expire on
2 [January 1, 2025] **December 31, 2029**, except that for small
3 wireless facilities already permitted or collocated on
4 authority poles prior to such date, the rate set forth in
5 section 67.5116 for collocation of small wireless facilities
6 on authority poles shall remain effective for the duration
7 of the permit authorizing the collocation.

71.340. **1.** The mayor and city council of any city or
2 the chairman and board of trustees of any incorporated town
3 or village shall have the power to annually appropriate and
4 pay out of the treasury of such city or incorporated town or
5 village a sum of money, not to exceed ten percent of the

6 annual general revenue thereof, for the purpose of
7 constructing, building, repairing, working, grading or
8 macadamizing any public road, street and highway and any
9 bridge thereon leading to and from such city or incorporated
10 town or village; and such appropriation shall be made by
11 ordinance and the money so appropriated shall be applied
12 under the supervision and direction of the engineers of such
13 city or incorporated town or village, and of the county
14 highway engineer of the county in which such city, town or
15 village is located, or of some competent person selected by
16 such city, town or village and approved by the county
17 highway engineer, who shall make a report thereof, in
18 writing, to the mayor and city council of such city, or to
19 the chairman and board of trustees of such incorporated town
20 or village; but this privilege shall not extend to a greater
21 distance than five miles from the corporate limits of such
22 city, town or village, and shall not be construed so as to
23 allow any obstruction to or interference with the free use
24 of any such public road, street or highway by the public,
25 except so far as may be necessary while such work is being
26 done, and further shall not be construed to affect the
27 liability of such city, town or village, which liability
28 shall be the same as if such roads, streets and highways
29 were inside the city limits.

30 **2. A city, incorporated town, or village shall not**
31 **perform any road maintenance or construction project (a**
32 **"road project") unless it reimburses a nonrate regulated**
33 **utility provider that incurs costs for facility relocation**
34 **due to such road project. A city, incorporated town, or**
35 **village shall be authorized to pay such facility relocation**
36 **costs as a part of the cost of the road project.**

37 3. For the purposes of this section and sections
38 226.220 and 226.224, "nonrate regulated utility provider"
39 shall mean:

40 (1) A telecommunications company as defined in
41 subdivision (52) of section 386.020 whose telecommunications
42 services are not subject to rate of return regulation by the
43 public service commission pursuant to subsection 1 of
44 section 392.240;

45 (2) A provider of broadband and other internet-
46 protocol-enabled services as defined in subsection 2 of
47 section 392.611;

48 (3) A video service provider as defined in subdivision
49 (17) of subsection 1 of section 67.2677;

50 (4) A cable operator as defined in subdivision (1) of
51 subsection 1 of section 67.2677; or

52 (5) A provider offering unlit fiberoptic lines or
53 capacity on such lines, provided that such provider shall be
54 considered a nonrate regulated utility provider solely with
55 respect to such lines.

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

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

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

78 has by virtue of law in regard to the sewer facilities
79 within the county for which he is elected. If there is no
80 sewer engineer in the county in which the greater part of
81 the district lies, the board of trustees may employ a
82 registered professional engineer as chief engineer for the
83 district under such terms and conditions as may be necessary
84 to discharge the business and purposes of the district. The
85 provisions of this subsection shall not apply to any county
86 of the first classification which has a charter form of
87 government and which contains all or any portion of a city
88 with a population of three hundred fifty thousand or more
89 inhabitants.

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

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

142 heretofore exercised by the chief engineer prior to
143 September 28, 1983. The administrator of the district may,
144 with the approval of the board of trustees, retain
145 consulting engineers for the district under such terms and
146 conditions as may be necessary to discharge the business and
147 purposes of the district. The provisions of this subsection
148 shall only apply to counties of the first classification
149 which have a charter form of government and which contain
150 all or any portion of a city with a population of three
151 hundred fifty thousand or more inhabitants.

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

21 2. [The trustees shall receive no compensation for
22 their services but may be compensated for reasonable

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

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

55 the first Tuesday after the first Monday in April, depending
56 upon the resolution of the trustees. In the event that the
57 trustees are elected, said elections shall be conducted by
58 the appropriate election authority under chapter 115.
59 Otherwise, trustees shall be appointed by the county
60 commission in accordance with the qualifications set forth
61 in subsection 1 of this section.

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

226.220. 1. There is hereby created and set up the
2 "State Road Fund" which shall receive all moneys and credits
3 from:

- 4 (1) The sale of state road bonds;
- 5 (2) The United States government and intended for
6 highway purposes;
- 7 (3) The state road bond and interest sinking fund as
8 provided in section 226.210; and
- 9 (4) Any other source if they are held for expenditure
10 by or under the department of transportation or the state
11 highways and transportation commission and if they are not
12 required by section 226.200 to be transferred to the state
13 highway department fund.

14 2. The costs and expenses withdrawn from the state
15 treasury:

- 16 (1) For locating, relocating, establishing, acquiring,
17 reimbursing for, constructing, improving and maintaining

18 state highways in the systems specified in Article IV,
19 Section 30(b), of the Constitution;

20 (2) **For reimbursing nonrate regulated utility**
21 **providers, as defined in subsection 3 of section 71.340, for**
22 **any costs incurred in facility relocation that is required**
23 **due to road maintenance or construction;**

24 (3) For acquiring materials, equipment and buildings;
25 and

26 [(3)] (4) For other purposes and contingencies
27 relating and appertaining to the construction and
28 maintenance of said highways shall be paid from the state
29 road fund upon warrants drawn by the state auditor, based
30 upon bills of particulars and vouchers preapproved and
31 certified for payment by the commissioner of administration
32 and by the state highways and transportation commission
33 acting through such of their employees as may be designated
34 by them.

35 3. No payments or transfers shall ever be made from
36 the state road fund except for an expenditure made

37 (1) Under the supervision and direction of the state
38 highways and transportation commission; and

39 (2) For a purpose set out in Subparagraph (1), (2),
40 (3), (4), or (5) of Section 30(b), Article IV, of the
41 Constitution.

226.224. The department shall reimburse nonrate
2 **regulated utility providers, as defined in subsection 3 of**
3 **section 71.340, for any costs incurred in facility**
4 **relocation that is required due to road maintenance or**
5 **construction.**

386.572. 1. No corporation, person, public utility,
2 or municipality that owns any gas plant shall violate any
3 law or any order, decision, decree, rule, direction, demand,

4 or requirement of the commission or any part or portion
5 thereof relating to federally mandated natural gas safety
6 standards. Notwithstanding the above, a municipality that
7 owns any gas plant shall be subject to the provisions of
8 this section only for violations of natural gas safety laws,
9 rules, or orders.

10 2. The maximum penalties for violations of federally
11 mandated natural gas safety standards, or such stricter
12 natural gas safety standards or rules as may be approved by
13 the commission, shall [not be greater than fifteen thousand
14 dollars for each violation with a maximum penalty for a
15 continuing violation or a multiple series of violations of
16 the same standard or rule provision not to exceed one
17 hundred fifty thousand dollars,] **not exceed an amount as**
18 **determined by the Secretary of Transportation of the United**
19 **States pursuant to 49 CFR Part 190.223(a)**, notwithstanding
20 any provisions of subsection 1 of section 386.570 to the
21 contrary. [The maximum penalty for each violation shall
22 increase to twenty thousand dollars, effective January 1,
23 2015, twenty-five thousand dollars, effective January 1,
24 2025, thirty thousand dollars, effective January 1, 2035,
25 and forty thousand dollars, effective January 1, 2040. The
26 maximum penalty for a continuing violation or a multiple
27 series of violations of the same standard or rule provision
28 shall increase to two hundred thousand dollars, effective
29 January 1, 2015, two hundred fifty thousand dollars,
30 effective January 1, 2025, three hundred thousand dollars,
31 effective January 1, 2035, and four hundred thousand
32 dollars, effective January 1, 2040.] In determining the
33 amount of the penalty, the commission shall consider the
34 nature, circumstances, and gravity of the violation, and

35 also shall consider, with respect to the entity found to
36 have committed the violation:

- 37 (1) The degree of culpability;
- 38 (2) Any history of prior violations;
- 39 (3) The effect of the penalty on the entity's ability
40 to continue operation;
- 41 (4) Any good faith effort in attempting to achieve
42 compliance;
- 43 (5) Ability to pay the penalty; and
- 44 (6) Such other matters as are relevant in the case.

45 3. Every violation of a specific natural gas safety
46 standard or rule by any corporation, person, public utility,
47 or municipality that owns any gas plant is a separate and
48 distinct offense, regardless of whether such violations
49 relate to the same incident. In case of a continuing
50 violation, each day's continuance thereof shall be a
51 separate and distinct offense.

52 4. In construing and enforcing the provisions of this
53 section, the act, omission, or failure of any officer,
54 agent, or employee of any corporation, person, public
55 utility, or municipality that owns any gas plant acting
56 within the scope of official duties of employment shall in
57 every case be considered the act, omission, or failure of
58 such corporation, person, public utility, or municipality
59 that owns any gas plant.

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

- 3 (1) "Biogas", a mixture of carbon dioxide and
4 hydrocarbons, primarily methane gas, released from the
5 biological decomposition of organic materials;
- 6 (2) "Biomass", has the meaning given the term
7 "qualified biomass" in section 142.028;

8 (3) "Gas corporation", the same as defined in section
9 386.020;

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

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

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

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

23 (b) Hydrogen gas **derived from renewable energy**
24 **sources;** or

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

26 a. Biogas;

27 b. Hydrogen gas or carbon oxides derived from
28 renewable energy sources; or

29 c. Waste carbon dioxide;

30 (7) "Renewable natural gas infrastructure", all
31 equipment and facilities for the production, processing,
32 pipeline interconnection, and distribution of renewable
33 natural gas to be furnished to Missouri customers.

34 2. **No later than July 1, 2025**, the commission shall
35 adopt rules **[for] permitting** gas corporations **to voluntarily**
36 **institute a [to offer a voluntary]** renewable natural gas
37 program. **[Rules adopted by the commission under this**
38 **section shall include:**

39 (1) Rules for reporting requirements; and

40 (2) Rules for establishing a process for gas
41 corporations to fully recover incurred costs that are
42 prudent, just, and reasonable associated with a renewable
43 natural gas program. Such recovery shall not be permitted
44 until the project is operational and produces renewable
45 natural gas for customer use.]

46 3. (1) A qualified investment shall be deemed prudent
47 for any gas corporation when the aggregate of such qualified
48 investments does not exceed:

49 (a) Three percent of such gas corporation's net plant
50 as reported in the gas corporation's most recent annual
51 report to the commission for any gas corporation with more
52 than one million customers in Missouri; or

53 (b) Five percent of such gas corporation's net plant
54 as reported in the gas corporation's most recent annual
55 report to the commission for any gas corporation with more
56 than forty thousand customers and fewer than one million
57 customers in Missouri; or

58 (c) Seven and one half percent of such gas
59 corporation's net plant as reported in the gas corporation's
60 most recent annual report to the commission for any gas
61 corporation with forty thousand customers or fewer in
62 Missouri.

63 (2) The qualified investment allowed under this
64 section shall apply to a gas corporation's combined gas
65 utility operations and gas service areas located in the
66 state. All costs incurred for qualified investments shall
67 also be reasonable to be deemed prudent by the commission.

68 4. A filing by a gas corporation pursuant to the
69 renewable natural gas program created in subsection 2 of
70 this section shall include, but is not limited to:

71 (1) A proposal to procure a total volume of renewable
72 natural gas over a specific period; [and]

73 (2) Identification of the qualified investments that
74 the gas corporation may make in renewable natural gas
75 infrastructure; and

76 (3) **A timeline for the investment and completion of**
77 **the proposed renewable natural gas infrastructure.**

78 [4.] 5. A gas corporation may from time to time revise
79 the filing submitted to the commission under this section no
80 more than one time per year.

81 [5.] 6. Any costs incurred by a gas corporation for a
82 qualified investment that are prudent, just, and reasonable
83 may be recovered by means of an automatic rate adjustment
84 clause.

85 7. **For any filing made by a gas corporation under this**
86 **section for a project with an aggregate cost of less than**
87 **five million dollars, the commission shall issue a decision**
88 **within ninety days of submission. For any such filing under**
89 **this subsection, the commission may exercise the right to**
90 **extend the review period for thirty additional days for good**
91 **cause. The commission shall not extend the review period**
92 **more than twice for a total of sixty additional days.**

93 [6.] 8. When a gas corporation makes a qualified
94 investment in the production of renewable natural gas, the
95 costs associated with such qualified investment shall
96 include the cost of capital established by the commission in
97 the gas corporation's most recent general rate case.

98 [7.] 9. On or before January 1, [2023] 2026, the
99 division of energy within the department of natural
100 resources shall provide to the chair of the public service
101 commission, the speaker of the house of representatives, the
102 president pro tempore of the senate, the chair of the senate

103 committee on commerce, consumer protection, energy, and the
104 environment, and the chair of the house of representatives
105 utility committee, a report on the renewable natural gas
106 program established under this section. Such report shall
107 include, but not be limited to, the following:

108 (1) The number of projects submitted for the renewable
109 natural gas program and the number of projects approved for
110 the renewable natural gas program;

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

114 (3) The volume of renewable natural gas produced in
115 the state through projects that were approved by the
116 renewable natural gas program as well as the percentage of
117 renewable natural gas produced in relation to the total
118 volume of natural gas sold in the state;

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

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

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

127 **[8.] 10.** Rules adopted by the commission under this
128 section shall not prohibit an affiliate of a gas corporation
129 from making a capital investment in a biogas production
130 project if the affiliate is not a public utility as defined
131 in section 386.020.

132 **[9.] 11.** The public service commission may promulgate
133 rules to implement the provisions of this section. Any rule
134 or portion of a rule, as that term is defined in section

135 536.010, that is created under the authority delegated in
136 this section shall become effective only if it complies with
137 and is subject to all of the provisions of chapter 536 and,
138 if applicable, section 536.028. This section and chapter
139 536 are nonseverable and if any of the powers vested with
140 the general assembly pursuant to chapter 536 to review, to
141 delay the effective date, or to disapprove and annul a rule
142 are subsequently held unconstitutional, then the grant of
143 rulemaking authority and any rule proposed or adopted after
144 August 28, 2021, shall be invalid and void.

145 [10.] 12. Pursuant to section 23.253 of the Missouri
146 sunset act, this section and any rules enacted under this
147 section shall expire nine years from the date the **commission**
148 **promulgates rules to implement the** renewable natural gas
149 program [is established], unless reauthorized by the general
150 assembly; provided that any rate adjustment authorized by
151 this section shall continue so long as the renewable natural
152 gas program remains in operation and produces renewable
153 natural gas for customer use.

393.150. 1. Whenever there shall be filed with the
2 commission by any gas corporation, electrical corporation,
3 water corporation or sewer corporation any schedule stating
4 a new rate or charge, or any new form of contract or
5 agreement, or any new rule, regulation or practice relating
6 to any rate, charge or service or to any general privilege
7 or facility, the commission shall have, and it is hereby
8 given, authority, either upon complaint or upon its own
9 initiative without complaint, at once, and if it so orders
10 without answer or other formal pleading by the interested
11 gas corporation, electrical corporation, water corporation
12 or sewer corporation, but upon reasonable notice, to enter
13 upon a hearing concerning the propriety of such rate,

14 charge, form of contract or agreement, rule, regulation or
15 practice, and pending such hearing and the decision thereon,
16 the commission upon filing with such schedule, and
17 delivering to the gas corporation, electrical corporation,
18 water corporation or sewer corporation affected thereby, a
19 statement in writing of its reasons for such suspension, may
20 suspend the operation of such schedule and defer the use of
21 such rate, charge, form of contract or agreement, rule,
22 regulation or practice, but not for a longer period than one
23 hundred and twenty days beyond the time when such rate,
24 charge, form of contract or agreement, rule, regulation or
25 practice would otherwise go into effect; and after full
26 hearing, whether completed before or after the rate, charge,
27 form of contract or agreement, rule, regulation or practice
28 goes into effect, the commission may make such order in
29 reference to such rate, charge, form of contract or
30 agreement, rule, regulation or practice as would be proper
31 in a proceeding initiated after the rate, charge, form of
32 contract or agreement, rule, regulation or practice had
33 become effective.

34 2. If any such hearing cannot be concluded within the
35 period of suspension, as above stated, the commission may,
36 in its discretion, extend the time of suspension for a
37 further period not exceeding six months, **the last day of**
38 **which period shall be considered the operation of law date.**

39 At any hearing involving a rate sought to be increased, the
40 burden of proof to show that the increased rate or proposed
41 increased rate is just and reasonable shall be upon the gas
42 corporation, electrical corporation, water corporation or
43 sewer corporation, and the commission shall give to the
44 hearing and decision of such questions preference over all

45 other questions pending before it and decide the same as
46 speedily as possible.

47 3. (1) The test year for proceedings under this
48 section shall, if requested by a gas corporation, water
49 corporation or sewer corporation, be a future year
50 consisting of the first twelve full calendar months after
51 the operation of law date determined as provided in
52 subsections 1 and 2 of this section for schedules stating
53 new base rates filed by a gas corporation, water
54 corporation, or sewer corporation under this section.
55 Unless otherwise ordered by the commission, new base rates
56 shall not go into effect before the first day of the future
57 test year.

58 (2) With respect to gas corporations, water
59 corporations, or sewer corporations that elect to utilize a
60 future test year and notwithstanding section 393.270, within
61 thirty days of the end of the future test year, such gas
62 corporation, water corporation, or sewer corporation shall
63 update its base rates that were approved by the commission
64 in its report and order issued under subsections 1 and 2 of
65 this section to reflect the total rate base, annualized
66 depreciation expense, income tax expense, payroll expense,
67 employee benefits (other than pensions and other post-
68 retirement benefits) and rate case expense at the end of the
69 future test year. The commission shall have sixty days to
70 review the accuracy of the updated information provided by a
71 gas corporation, water corporation, or sewer corporation.

72 4. For a gas corporation, water corporation, or sewer
73 corporation that elected to use a future test year, a
74 reconciliation of the rate base at the end of the future
75 test year shall be provided to the commission within thirty
76 days of the end of the future test year. If the actual rate

77 base is less than the rate base used to set base rates in
78 the prior general rate proceeding under subsections 1 and 2
79 of this section, and notwithstanding section 393.270, the
80 portion of the annual revenue requirement comprising the
81 rate base difference shall be returned to customers. The
82 revenue requirement shall be calculated using rate base,
83 depreciation expense, income tax expense, and the pre-tax
84 rate of return from the prior general rate proceeding under
85 subsections 1 and 2 of this section. The difference in
86 revenue requirement shall be placed into a regulatory
87 liability to be returned to customers in the next general
88 rate proceeding with such regulatory liability to accrue
89 carrying costs at the utility's weighted average cost of
90 capital.

91 5. For a gas corporation, water corporation, or sewer
92 corporation that elected to use a future test year, a
93 reconciliation of payroll expense, employee benefits except
94 for pensions and other post-retirement benefits, and rate
95 case expense at the end of the future test year shall be
96 provided to the commission within thirty days of the end of
97 the future test year. If the actual amounts for these
98 expenses are less than the amounts used to calculate the
99 revenue requirement in the prior general rate proceeding
100 under subsections 1 and 2 of this section, and
101 notwithstanding section 393.270, the differences shall be
102 returned to customers. The difference in revenue
103 requirement shall be placed into a regulatory liability to
104 be returned to customers in the next general rate case with
105 such regulatory liability to accrue carrying costs at the
106 utility's weighted average cost of capital.

107 6. For purposes of subsection 3 of this section, the
108 following terms shall mean:

109 (1) "Base rates", rates or charges for public utility
110 service other than rates or charges under any rate
111 adjustment mechanism including, but not limited to, those
112 approved under the provisions of sections 386.266, 393.1000,
113 393.1009, 393.1030, 393.1075, and 393.1500;

114 (2) "Revenue requirement", the amount of retail
115 revenues from base rates charged to retail customers for
116 public utility service needed for a public utility to cover
117 its cost to provide utility service including reasonable and
118 necessary expenses, prudent investments, and the cost of
119 capital.

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

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

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

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

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

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

30 2. The procedures contained in this section may be
31 chosen by a large water public utility, and if so chosen
32 **[shall] may** be used by the public service commission to
33 establish the ratemaking rate base of a small water utility
34 during an acquisition, **provided that the public service**
35 **commission independently concludes that a certificate of**
36 **convenience and necessity should be granted pursuant to**
37 **section 393.170, unless the public service commission finds**
38 **that the application of this section results in rates that**
39 **are unjust and unreasonable.**

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

47 (2) The appraisers shall:

48 (a) Jointly prepare an appraisal of the fair market
49 value of the water system and/or sewer system. The
50 determination of fair market value shall be in accordance
51 with Missouri law and with the Uniform Standards of
52 Professional Appraisal Practice; and

53 (b) Return their appraisal, in writing, to the small
54 water utility and large water public utility in a reasonable
55 and timely manner.

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

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

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

74 (a) The lesser of the purchase price or the appraised
75 value, together with the reasonable and prudent transaction,
76 closing, and transition costs incurred by the large water
77 public utility unless such transaction, closing, and
78 transition costs are elsewhere recoverable in rates; and

79 (b) The ratemaking rate base of the small water
80 utility as ordered by the public service commission in the
81 small water utility's last previous rate case as adjusted by
82 improvements and depreciation reserve since the previous
83 rate case together with the transaction, closing, and
84 transition costs incurred by the large water public utility

85 unless such transaction, closing, and transition costs are
86 elsewhere recoverable in rates. If the small water utility
87 and large water public utility proceed with the sale, any
88 past-due fees due to the state from the small water utility
89 or its customers under chapter 640 or 644 shall be resolved
90 prior to the transfer of ownership or the liability for such
91 past-due fees becomes the responsibility of the large water
92 public utility. Such fees shall not be included in the
93 large water public utility's rate base.

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

101 (3) Prior to the expiration of the six-month period,
102 the public service commission staff or the office of public
103 counsel may request, upon a showing of good cause, from the
104 public service commission an extension for approval of the
105 application for an additional thirty days.

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

116 shall be approved by the public service commission in its
117 order approving the acquisition.

118 7. Any new permit issued pursuant to chapters 640 and
119 644, when a small water utility is acquired by a large water
120 public utility, shall include a plan to resolve all
121 outstanding permit compliance issues. After the transfer of
122 ownership, the acquiring large public water utility shall
123 continue providing service to all customers that were served
124 by the small water utility at the time of sale.

125 8. This section is intended for the specific and
126 unique purpose of determining the ratemaking rate base of
127 small water utilities and shall be exclusively applied to
128 large water public utilities in the acquisition of a small
129 water utility. **A large water public utility's choice to**
130 **comply with the provisions of this section does not**
131 **automatically ensure that the transaction is in the public**
132 **interest. The public service commission shall independently**
133 **determine whether the acquisition is in the public interest,**
134 **regardless of whether the matter has been put to a vote of**
135 **the small water utility's ratepayers.** This section is not
136 intended to apply beyond its specific purpose and shall not
137 be construed in any manner to apply to electric
138 corporations, natural gas corporations, or any other utility
139 regulated by the public service commission.

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

3 (1) **"Dispatchable power resource", a source of**
4 **electricity that is, under normal operating conditions,**
5 **available for use on demand and that can have its power**
6 **output adjusted according to market needs, except during**
7 **routine maintenance and repair;**

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

11 (3) "Existing electric generating power plant", a
12 thermal power plant of over one hundred megawatts in
13 nameplate capacity, a generating unit at a thermal power
14 plant with a nameplate capacity of over one hundred
15 megawatts, or two or more generating units at a thermal
16 power plant with a combined nameplate capacity of over one
17 hundred megawatts;

18 (4) "Regional transmission operator", a regional
19 transmission organization, independent system operator, or
20 equivalent entity approved by the Federal Energy Regulatory
21 Commission, or successor agency, that exercises functional
22 control over electric transmission facilities located within
23 this state;

24 (5) "Reliable electric generation", electric
25 generation meeting the accreditation requirements provided
26 for in this section;

27 (6) "Unexpected or unplanned cause or event", a
28 natural disaster, physical sabotage, equipment failure or
29 damage causing a forced prolonged outage, or an adverse
30 decision of a court or a change in a state or federal law or
31 regulation which causes the closure of an existing electric
32 generating plant.

33 2. Prior to the closure of an existing electric
34 generating power plant in Missouri if the closure occurs on
35 or after January 1, 2025, and subject to subsection 3 of
36 this section, an electrical corporation registered and doing
37 business in this state shall first certify to the public
38 service commission that such utility company has secured and
39 placed on the electric grid an equal or greater amount of

40 reliable electric generation as accredited power resources
41 based on the regional transmission operator's resource
42 accreditation for the reliable electric generation
43 technology at issue. To determine if an equal or greater
44 amount of reliable electric generation is being placed on
45 the electric grid to replace the existing electric
46 generating power plant that is to be closed, the electrical
47 corporation shall compare the relevant regional transmission
48 operator's average of the summer and winter accredited
49 capacity for the generation technology of the to-be-closed
50 existing electric generating power plant to the relevant
51 regional transmission operator's average of the summer and
52 winter accredited capacity for the generation technology of
53 the replacement reliable electric generation. Such average
54 of the summer and winter accredited capacity for the
55 replacement reliable electric generation shall equal or
56 exceed such average of the summer and winter accredited
57 capacity for the existing electric generating plant that is
58 to be closed. Dispatchable power resources shall comprise
59 at least eighty percent of the average of the summer and
60 winter capacity of the replacement reliable electric
61 generation.

62 3. With respect to the replacement reliable electric
63 generation required by subsection 2 of this section,
64 adequate electric transmission lines shall be in place and
65 the replacement reliable electric generation shall be fully
66 operational concurrently with the closure of the existing
67 electric generating plant, except where some or all of the
68 replacement reliable electric generation utilizes some or
69 all the interconnection facilities used by the existing
70 electric generating power plant, or where the existing
71 electric generating power plant is closed as a result of an

72 unexpected or unplanned cause or event. In the event that
73 some or all of the replacement reliable electric generation
74 utilizes some or all of the interconnection facilities
75 utilized by the existing electric generating power plant,
76 then such replacement facilities shall be fully operational
77 within one hundred eighty days of the closure of the
78 existing electric generating power plant. In the event that
79 the existing electric generating power plant is closed as a
80 result of an unexpected or unplanned cause or event, the
81 following process shall apply:

82 (a) Within one hundred twenty days after the event
83 causing the closure occurs, the electrical corporation shall
84 file an application with the commission outlining its plan
85 to install replacement reliable electric generation. The
86 application shall specify the generation technology the
87 electrical corporation proposes to be used for the
88 replacement, its estimated cost, and shall demonstrate that
89 the replacement reliable electric generation's average
90 accredited capacity is equal to or greater than the average
91 accredited capacity of the closed plant according to the
92 process outlined in subsection 2 of this section. Within
93 one hundred eighty days of the application's filing, the
94 commission shall either approve the electrical corporation's
95 application or approve implementation of alternative
96 reliable electric generation meeting the accreditation
97 requirements of this section.

98 (b) Promptly after issuance of the commission's order
99 under subdivision (a) of this subsection, the electrical
100 corporation shall proceed and use all reasonable efforts to
101 procure, build, and place into operation the approved
102 alternative reliable generation.

103 During any periods allowed by this subsection where the
104 replacement reliable electric generation is not fully
105 operational by the time of the closure of the existing
106 electric generating power plant, the electrical corporation
107 shall use all reasonable efforts to contract for or
108 otherwise acquire additional available firm generating
109 capacity in a quantity necessary to meet the planning
110 reserve margin requirement of the regional transmission
111 operator in which the electrical corporation operates
112 without reliance on such replacement reliable electric
113 generation. At such time as such replacement reliable
114 electric generation is fully operational, such additional
115 available firm generating capacity shall no longer be
116 required. An electrical corporation shall not enter into a
117 voluntary or negotiated settlement with a third party that
118 requires closure of an existing electric generating plant
119 unless the electrical corporation determines that such a
120 settlement is in the best interest of its customers and
121 would maintain electric reliability. Electrical
122 corporations shall not enter into such a settlement in order
123 to meet pollution reduction or other corporate or societal
124 goals beyond those required by law.

125 4. The average of the summer and winter accredited
126 capacity of the replacement reliable electric generation
127 determined in accordance with subsection 2 of this section
128 shall be equal to or greater than the average summer and
129 winter accredited capacity of the dispatchable existing
130 electric generating power plant determined in accordance
131 with subsection 2 of this section, using the regional
132 transmission operator's resource accreditation as of the
133 time construction begins on the replacement reliable
134 electric generation. As part of its approval of the

135 replacement reliable electric generation under subsection 1
136 of section 393.170, the public service commission shall
137 certify that the requirements of this subsection shall be
138 met by the replacement reliable electric generation.

139 5. Such reliable electric generation may be
140 constructed in a state that neighbors Missouri if the
141 generation is connected to the electric grid of the regional
142 transmission operator of which the electrical corporation is
143 a member.

144 6. On or before the date that the new reliable
145 electric generation is placed in service, the electrical
146 corporation shall provide certification to the public
147 service commission, the general assembly, and the governor
148 that it has met the requirements of this section.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

393.1400. 1. For purposes of this section, the
2 following terms shall mean:

3 (1) "Commission", the public service commission;

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

7 (3) "Qualifying electric plant", all rate-base
8 additions, except rate-base additions for new coal-fired
9 generating units, new nuclear generating units, [new natural
10 gas units,] or rate-base additions that increase revenues by
11 allowing service to new customer premises;

12 (4) "Rate-base cutoff date", the date rate-base
13 additions are accounted for in a general rate proceeding.
14 In the absence of a commission order that specifies the rate-
15 base cutoff date, such date as reflected in any jointly
16 proposed procedural schedule submitted by the parties in the
17 applicable general rate proceeding, or as otherwise agreed
18 to by such parties, shall be used;

19 (5) "Weighted average cost of capital", the return on
20 rate base used to determine the revenue requirement in the
21 electrical corporation's most recently completed general
22 rate proceeding; provided, that in the absence of a
23 commission determination of the return on rate base within
24 the three-year period prior to August 28, 2022, the weighted
25 average cost of capital shall be determined using the

26 electrical corporation's actual capital structure as of
27 December 31, 2021, excluding short-term debt, the electrical
28 corporation's actual cost of long-term debt and preferred
29 stock as of December 31, 2021, and a cost of common equity
30 of nine and one-half percent.

31 2. (1) Notwithstanding any other provision of this
32 chapter to the contrary, electrical corporations shall defer
33 to a regulatory asset eighty-five percent of all
34 depreciation expense and return associated with all
35 qualifying electric plant recorded to plant-in-service on
36 the utility's books commencing on or after [August 28, 2018,
37 if] the electrical corporation [has] made the election
38 provided for by subsection 5 of this section [by that date,
39 or on the date such election is made if the election is made
40 after August 28, 2018] **through August 27, 2024. Beginning**
41 **August 28, 2024, and notwithstanding any other provision of**
42 **this chapter to the contrary, electrical corporations shall**
43 **defer to a regulatory asset eighty-five percent of all**
44 **depreciation expense and return associated with all**
45 **qualifying electric plant recorded to plant-in-service on**
46 **the utility's books, except for qualifying electric plant**
47 **that consists of investment in new generating units**
48 **including new energy storage systems for which the deferral**
49 **shall be ninety percent.** In each general rate proceeding
50 concluded after August 28, 2018, the balance of the
51 regulatory asset as of the rate-base cutoff date shall,
52 subject only to the cap provided for in section 393.1655 or
53 section 393.1656, as applicable, be included in the
54 electrical corporation's rate base without any offset,
55 reduction, or adjustment based upon consideration of any
56 other factor, other than as provided for in subdivision (2)
57 of this subsection, with the regulatory asset balance

58 arising from deferrals associated with qualifying electric
59 plant placed in service after the rate-base cutoff date to
60 be included in rate base in the next general rate
61 proceeding. The expiration of this section shall not affect
62 the continued inclusion in rate base and amortization of
63 regulatory asset balances that arose under this section
64 prior to such expiration.

65 (2) The regulatory asset balances arising under this
66 section shall be adjusted to reflect any prudence
67 disallowances ordered by the commission. The provisions of
68 this section shall not be construed to affect existing law
69 respecting the burdens of production and persuasion in
70 general rate proceedings for rate-base additions.

71 (3) Parts of regulatory asset balances created under
72 this section that are not yet being recovered through rates
73 shall include carrying costs at the electrical corporation's
74 weighted average cost of capital, plus applicable federal,
75 state, and local income or excise taxes. Regulatory asset
76 balances arising under this section and included in rate
77 base shall be recovered in rates through a twenty-year
78 amortization beginning on the date new rates reflecting such
79 amortization take effect.

80 3. (1) Depreciation expense deferred under this
81 section shall account for all qualifying electric plant
82 placed into service less retirements of plant replaced by
83 such qualifying electric plant.

84 (2) Return deferred under this section shall be
85 determined using the weighted average cost of capital
86 applied to the change in plant-related rate base caused by
87 the qualifying electric plant, plus applicable federal,
88 state, and local income or excise taxes. In determining the
89 return deferred, the electrical corporation shall account

90 for changes in all plant-related accumulated deferred income
91 taxes and changes in accumulated depreciation, excluding
92 retirements.

93 4. Beginning February 28, 2019, and by each February
94 twenty-eighth thereafter while the electrical corporation is
95 allowed to make the deferrals provided for by subsection 2
96 of this section, electrical corporations that defer
97 depreciation expense and return authorized under this
98 section shall submit to the commission a five-year capital
99 investment plan setting forth the general categories of
100 capital expenditures the electrical corporation will pursue
101 in furtherance of replacing, modernizing, and securing its
102 infrastructure. The plan shall also include a specific
103 capital investment plan for the first year of the five-year
104 plan consistent with the level of specificity used for
105 annual capital budgeting purposes. For each project in the
106 specific capital investment plan on which construction
107 commences on or after January first of the year in which the
108 plan is submitted, and where the cost of the project is
109 estimated to exceed twenty million dollars, the electrical
110 corporation shall identify all costs and benefits that can
111 be quantitatively evaluated and shall further identify how
112 those costs and benefits are quantified. For any cost or
113 benefit with respect to such a project that the electrical
114 corporation believes cannot be quantitatively evaluated, the
115 electrical corporation shall state the reasons the cost or
116 benefit cannot be quantitatively evaluated, and how the
117 electrical corporation addresses such costs and benefits
118 when reviewing and deciding to pursue such a project. No
119 such project shall be based solely on costs and benefits
120 that the electrical corporation believes cannot be
121 quantitatively evaluated. Any quantification for such a

122 project that does not produce quantified benefits exceeding
123 the costs shall be accompanied by additional justification
124 in support of the project. For each of the first five years
125 that an electrical corporation is allowed to make the
126 deferrals provided for by subsection 2 of this section, the
127 purchase and installation of smart meters shall constitute
128 no more than six percent of the electrical corporation's
129 total capital expenditures during any given year under the
130 corporation's specific capital investment plan. At least
131 twenty-five percent of the cost of **the investments reflected**
132 **in** each year's capital investment plan, **which for the**
133 **purposes of this subsection shall exclude the cost of**
134 **investments in new generating units and energy storage**
135 **systems**, shall be comprised of grid modernization projects,
136 including but not limited to:

137 (1) Increased use of digital information and controls
138 technology to improve reliability, security, and efficiency
139 of the electric grid;

140 (2) Dynamic optimization of grid operations and
141 resources, with full cybersecurity;

142 (3) Deployment and integration of distributed
143 resources and generation, including renewable resources;

144 (4) Development and incorporation of demand response,
145 demand-side resources, and energy-efficiency resources;

146 (5) Deployment of smart technologies (real-time,
147 automated, interactive technologies that optimize the
148 physical operation of appliances and consumer devices) for
149 metering, communications, concerning grid operations and
150 status, and distribution automation;

151 (6) Integration of smart appliances and devices;

152 (7) Deployment and integration of advanced electricity
153 storage and peak-shaving technologies, including plug-in

154 electric and hybrid electric vehicles, and thermal storage
155 air conditioning;

156 (8) Provision of timely information and control
157 options to consumer;

158 (9) Development of standards for communication and
159 interoperability of appliances and equipment connected to
160 the electric grid, including the infrastructure serving the
161 grid; and

162 (10) Identification and lowering of unreasonable or
163 unnecessary barriers to adoption of smart grid technologies,
164 practices, and services.

165 Project specific information need not be included for the
166 five-year period covered by the plan. Within thirty days of
167 the filing of any capital investment plan or annual update
168 to an existing plan, the electrical corporation shall host a
169 public stakeholder meeting to answer questions and receive
170 feedback about the plan. After feedback is received, the
171 electrical corporation shall file a notice with the
172 commission of any modifications to the capital investment
173 plan it has accepted. Changes to the plan, its
174 implementation, or the level of investments made shall not
175 constitute evidence of imprudence of the investments made
176 under such plan. The submission of a capital investment
177 plan under this section shall not affect in any way the
178 commission's authority with respect to the grant or denial
179 of a certificate of convenience and necessity under section
180 393.170. By February twenty-eighth following each year in
181 which the electrical corporation submits a capital
182 investment plan, the electrical corporation shall submit a
183 report to the commission detailing actual capital
184 investments made the previous year, the quantitatively

185 evaluated benefits and costs generated by each of those
186 investments that exceeded twenty million dollars, and any
187 efficiencies achieved as a result of those investments.

188 5. This section shall only apply to any electrical
189 corporation that has filed a notice with the commission of
190 the electrical corporation's election to make the deferrals
191 for which this section provides. An electrical corporation
192 may provide notice to the commission one time under this
193 subsection if such corporation has applied to the commission
194 under subsection 2 of section 386.266, provided the
195 corporation shall not concurrently utilize deferrals under
196 this subsection and the electric rate adjustments set forth
197 in subsection 3 of section 386.266. An electrical
198 corporation's election shall allow it to make the deferrals
199 provided for by subsection 2 of this section until December
200 31, **[2028] 2035**. Notwithstanding the immediately preceding
201 sentence, an electrical corporation may seek permission to
202 continue to make the deferrals provided for by subsection 2
203 of this section for an additional five years beyond December
204 31, **[2028] 2035**, by filing an application with the
205 commission seeking such permission by December 31, **[2026]**
206 **2033**, which application shall be ruled upon by the
207 commission within one hundred eighty days after its filing.
208 In deciding whether to grant such permission to continue the
209 commission shall have the authority, consistent with its
210 statutory authority outside this section, to consider such
211 factors as in its judgment it deems necessary and may
212 condition the permission on factors that are relevant to the
213 deferrals authorized by subsection 2 of this section. The
214 commission shall make the determination of whether to grant
215 such permission to continue after a hearing. An electrical
216 corporation making deferrals provided for by subsection 2 of

217 this section on and after January 1, 2024, shall be subject
218 to the revenue requirement impact cap set forth under
219 section 393.1656. Failure to obtain such commission
220 permission to continue shall not affect deferrals made
221 through the date for which permission has been granted, or
222 the regulatory and ratemaking treatment of the regulatory
223 assets arising from such deferrals as provided for by this
224 section.

225 6. The commission may take into account any change in
226 business risk to the corporation resulting from
227 implementation of the deferrals in setting the corporation's
228 allowed return in any rate proceeding, in addition to any
229 other changes in business risk experienced by the
230 corporation.

231 7. This section shall expire on December 31, [2033]
232 **2040**, except that the amortization of the regulatory asset
233 balances arising under this section shall continue to be
234 reflected in the electrical corporation's rates and
235 remaining regulatory asset balances shall be included in the
236 electrical corporation's rate base consistent with the
237 ratemaking treatment and amortization previously approved by
238 the commission pursuant to this section.

393.1506. 1. Notwithstanding any provisions of
2 chapter 386 and this chapter to the contrary, a water or
3 sewer corporation that provides water [or sewer] service to
4 more than eight thousand customer connections, **sewer service**
5 **to more than eight thousand customer connections, or a**
6 **combination of either to more than eight thousand customer**
7 **connections** may file a petition and proposed rate schedules
8 with the commission to establish or change a WSIRA that will
9 provide for the recovery of the appropriate pretax revenues
10 associated with the eligible infrastructure system projects,

11 less the appropriate pretax revenues associated with any
12 retired utility plant that is being replaced by the eligible
13 infrastructure system projects. The WSIRA shall not produce
14 revenues in excess of fifteen percent of the water or sewer
15 corporation's base revenue requirement approved by the
16 commission in the water or sewer corporation's most recent
17 general rate proceeding; provided, however, that neither
18 WSIRA revenues attributable to replacement of customer-owned
19 lead service lines, nor any reconciliation amounts described
20 in subdivision (2) of subsection 5 of section 393.1509,
21 shall count toward the program cap. The WSIRA and any
22 future changes thereto shall be calculated and implemented
23 in accordance with the provisions of sections 393.1503 to
24 393.1509. WSIRA revenues shall be subject to refund based
25 upon a finding and order of the commission, to the extent
26 provided in subsections 5 and 8 of section 393.1509.

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

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

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

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

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

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

18 To obtain one of the discounts set forth in subdivision (1)
19 or (2) of this subsection, the customer's load shall be
20 incremental, net of any offsetting load reductions due to
21 the termination of other accounts of the customer or an
22 affiliate of the customer within twelve months prior to the
23 commencement of service to the new load, the customer shall
24 receive an economic development incentive from the local,
25 regional, state, or federal government, or from an agency or
26 program of any such government, in conjunction with the
27 incremental load, and the customer shall meet the criteria
28 set forth in the gas corporation's economic development
29 rider tariff sheet, as approved by the commission, that are
30 not inconsistent with the provisions of this subsection.
31 Unless otherwise provided for by the gas corporation's
32 tariff, the applicable discount shall be a percentage
33 applied to all variable base-rate components of the bill.
34 The discount shall be applied to such incremental load from
35 the date when the meter has been permanently set until the
36 date that such incremental load no longer meets the criteria
37 required to qualify for the discount as determined under the
38 provisions of subsection 2 of this section, or a maximum of
39 four years. The gas corporation may include in its tariff
40 additional or alternative terms and conditions to a
41 customer's utilization of the discount, subject to approval
42 of such terms and conditions by the commission. The
43 customer, on forms supplied by the gas corporation, shall
44 apply for the applicable discount provided for by this
45 subsection at least ninety days prior to the date the
46 customer requests that the incremental usage receive one of
47 the discounts provided for by this subsection and shall
48 enter into a written agreement with the gas corporation
49 reflecting the discount percentages and other pertinent

50 details prior to which no discount will be available. If
51 the incremental usage is not separately metered, the gas
52 corporation's determination of the incremental usage shall
53 control. The gas corporation shall verify the customer's
54 consumption annually to determine continued qualification
55 for the applicable discount. Notwithstanding the foregoing
56 provisions of this subsection, the cents-per-CCF realization
57 resulting from application of any discounted rates as
58 calculated shall be higher than the gas corporation's
59 variable cost to serve such incremental usage and the
60 applicable discounted rate also shall make a positive
61 contribution to fixed costs associated with service to such
62 incremental usage. If in a subsequent general rate
63 proceeding the commission determines that application of a
64 discounted rate is not adequate to cover the gas
65 corporation's variable cost to serve the accounts in
66 question and provide a positive contribution to fixed costs,
67 then the commission shall reduce the discount for those
68 accounts prospectively to the extent necessary to do so.

69 2. In each general rate proceeding concluded after
70 August 28, 2024, the difference in revenues generated by
71 applying the discounted rates provided for by this section
72 and the revenues that would have been generated without such
73 discounts shall not be imputed into the gas corporation's
74 revenue requirement, but instead such revenue requirement
75 shall be set using the revenues generated by such discounted
76 rates, and the impact of the discounts provided for by this
77 section shall be allocated to all the gas corporation's
78 customer classes, including the classes with customers that
79 qualify for discounts under this section, through the
80 application of a uniform percentage adjustment to the
81 revenue requirement responsibility of all customer classes.

82 To qualify for the discounted rates provided for in this
83 section, customers shall meet the applicable criteria within
84 twenty-four months of initially receiving discounts based on
85 metering data for calendar months thirteen through twenty-
86 four and annually thereafter. If such data indicates that
87 the customer did not meet the applicable criteria for any
88 subsequent twelve-month period, it shall thereafter no
89 longer qualify for a discounted rate. Customer usage
90 existing at the time the customer makes application for
91 discounted rates under this section shall not constitute
92 incremental usage. The discounted rates provided for by
93 this section apply only to variable base-rate components,
94 with charges or credits arising from any rate adjustment
95 mechanism authorized by law to be applied to customers
96 qualifying for discounted rates under this section in the
97 same manner as such rate adjustments would apply in absence
98 of this section.

99 3. For purposes of this section the following terms
100 shall mean:

101 (1) "Gas corporation", the same as defined in section
102 386.020;

103 (2) "Variable base-rate components", the rate charged
104 for gas service based on the volume of gas used excluding
105 any additional riders or surcharges.

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

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

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

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

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

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

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

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

28 (a) Pretax costs with respect to a retired or
29 abandoned or to be retired or abandoned electric generating
30 facility that is the subject of a petition for a financing
31 order filed under this section where such early retirement
32 or abandonment is deemed reasonable and prudent by the
33 commission through a final order issued by the commission,
34 include, but are not limited to, the undepreciated
35 investment in the retired or abandoned or to be retired or
36 abandoned electric generating facility and any facilities
37 ancillary thereto or used in conjunction therewith, costs of
38 decommissioning and restoring the site of the electric
39 generating facility, other applicable capital and operating
40 costs, accrued carrying charges, and deferred expenses, with

41 the foregoing to be reduced by applicable tax benefits of
42 accumulated and excess deferred income taxes, insurance,
43 scrap and salvage proceeds, and may include the cost of
44 retiring any existing indebtedness, fees, costs, and
45 expenses to modify existing debt agreements or for waivers
46 or consents related to existing debt agreements;

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

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

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

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

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

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

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

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

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

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

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

103 (12) "Pledgee", a financing party to which an
104 electrical corporation or its successors or assignees

105 mortgages, negotiates, pledges, or creates a security
106 interest or lien on all or any portion of its interest in or
107 right to securitized utility tariff property;

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

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

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

132 (16) "Securitized utility tariff charge", the amounts
133 authorized by the commission to repay, finance, or refinance
134 securitized utility tariff costs and financing costs and
135 that are, except as otherwise provided for in this section,
136 nonbypassable charges imposed on and part of all retail

137 customer bills, collected by an electrical corporation or
138 its successors or assignees, or a collection agent, in full,
139 separate and apart from the electrical corporation's base
140 rates, and paid by all existing or future retail customers
141 receiving electrical service from the electrical corporation
142 or its successors or assignees under commission-approved
143 rate schedules, except for customers receiving electrical
144 service under special contracts as of August 28, 2021, even
145 if a retail customer elects to purchase electricity from an
146 alternative electricity supplier following a fundamental
147 change in regulation of public utilities in this state;

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

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

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

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

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

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

176 (a) A description of the electric generating facility
177 or facilities that the electrical corporation has retired or
178 abandoned, or proposes to retire or abandon, prior to the
179 date that all undepreciated investment relating thereto has
180 been recovered through rates and the reasons for undertaking
181 such early retirement or abandonment, or if the electrical
182 corporation is subject to a separate commission order or
183 proceeding relating to such retirement or abandonment as
184 contemplated by subdivision (2) of this subsection, and a
185 description of the order or other proceeding;

186 (b) The energy transition costs;

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

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

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

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

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

223 (h) Direct testimony supporting the petition.

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

228 (a) A description of the qualified extraordinary
229 costs, including their magnitude, the reasons those costs
230 were incurred by the electrical corporation and the retail

231 customer rate impact that would result from customary
232 ratemaking treatment of such costs;

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

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

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

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

260 (f) A proposed future ratemaking process to reconcile
261 any differences between securitized utility tariff costs
262 financed by securitized utility tariff bonds and the final

263 securitized costs incurred by the electrical corporation or
264 assignee provided that any such reconciliation shall not
265 affect the amount of securitized utility tariff bonds or the
266 associated securitized utility tariff charges paid by
267 customers; and

268 (g) Direct testimony supporting the petition.

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

274 a. The commission shall establish a procedural
275 schedule that permits a commission decision no later than
276 two hundred fifteen days after the date the petition is
277 filed;

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

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

288 (b) In performing its responsibilities under this
289 section in approving, approving subject to conditions, or
290 rejecting a petition for a financing order, the commission
291 may retain counsel, one or more financial advisors, or other
292 consultants as it deems appropriate. Such outside counsel,
293 advisor or advisors, or consultants shall owe a duty of
294 loyalty solely to the commission and shall have no interest

295 in the proposed securitized utility tariff bonds. The costs
296 associated with any such engagements shall be paid by the
297 petitioning corporation and shall be included as financed
298 costs in the securitized utility tariff charge and shall not
299 be an obligation of the state and shall be assigned solely
300 to the subject transaction. **The commission may directly**
301 **contract counsel, financial advisors, or other consultants**
302 **as necessary for effectuating the purposes of this section.**
303 **Such contracting procedures shall not be subject to the**
304 **provisions of chapter 34, however the commission shall**
305 **establish a policy for the bid process. Such policy shall**
306 **be publicly available and any information related to**
307 **contracts under the established policy shall be included in**
308 **publicly available rate case documentation.**

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

312 a. The amount of securitized utility tariff costs to
313 be financed using securitized utility tariff bonds and a
314 finding that recovery of such costs is just and reasonable
315 and in the public interest. The commission shall describe
316 and estimate the amount of financing costs that may be
317 recovered through securitized utility tariff charges and
318 specify the period over which securitized utility tariff
319 costs and financing costs may be recovered;

320 b. A finding that the proposed issuance of securitized
321 utility tariff bonds and the imposition and collection of a
322 securitized utility tariff charge are just and reasonable
323 and in the public interest and are expected to provide
324 quantifiable net present value benefits to customers as
325 compared to recovery of the components of securitized
326 utility tariff costs that would have been incurred absent

327 the issuance of securitized utility tariff bonds.
328 Notwithstanding any provisions of this section to the
329 contrary, in considering whether to find the proposed
330 issuance of securitized utility tariff bonds and the
331 imposition and collection of a securitized utility tariff
332 charge are just and reasonable and in the public interest,
333 the commission may consider previous instances where it has
334 issued financing orders to the petitioning electrical
335 corporation and such electrical corporation has previously
336 issued securitized utility tariff bonds;

337 c. A finding that the proposed structuring and pricing
338 of the securitized utility tariff bonds are reasonably
339 expected to result in the lowest securitized utility tariff
340 charges consistent with market conditions at the time the
341 securitized utility tariff bonds are priced and the terms of
342 the financing order;

343 d. A requirement that, for so long as the securitized
344 utility tariff bonds are outstanding and until all financing
345 costs have been paid in full, the imposition and collection
346 of securitized utility tariff charges authorized under a
347 financing order shall be nonbypassable and paid by all
348 existing and future retail customers receiving electrical
349 service from the electrical corporation or its successors or
350 assignees under commission-approved rate schedules except
351 for customers receiving electrical service under special
352 contracts on August 28, 2021, even if a retail customer
353 elects to purchase electricity from an alternative electric
354 supplier following a fundamental change in regulation of
355 public utilities in this state;

356 e. A formula-based true-up mechanism for making, at
357 least annually, expeditious periodic adjustments in the
358 securitized utility tariff charges that customers are

359 required to pay pursuant to the financing order and for
360 making any adjustments that are necessary to correct for any
361 overcollection or undercollection of the charges or to
362 otherwise ensure the timely payment of securitized utility
363 tariff bonds and financing costs and other required amounts
364 and charges payable under the securitized utility tariff
365 bonds;

366 f. The securitized utility tariff property that is, or
367 shall be, created in favor of an electrical corporation or
368 its successors or assignees and that shall be used to pay or
369 secure securitized utility tariff bonds and approved
370 financing costs;

371 g. The degree of flexibility to be afforded to the
372 electrical corporation in establishing the terms and
373 conditions of the securitized utility tariff bonds,
374 including, but not limited to, repayment schedules, expected
375 interest rates, and other financing costs;

376 h. How securitized utility tariff charges will be
377 allocated among retail customer classes. The initial
378 allocation shall remain in effect until the electrical
379 corporation completes a general rate proceeding, and once
380 the commission's order from that general rate proceeding
381 becomes final, all subsequent applications of an adjustment
382 mechanism regarding securitized utility tariff charges shall
383 incorporate changes in the allocation of costs to customers
384 as detailed in the commission's order from the electrical
385 corporation's most recent general rate proceeding;

386 i. A requirement that, after the final terms of an
387 issuance of securitized utility tariff bonds have been
388 established and before the issuance of securitized utility
389 tariff bonds, the electrical corporation determines the
390 resulting initial securitized utility tariff charge in

391 accordance with the financing order, and that such initial
392 securitized utility tariff charge be final and effective
393 upon the issuance of such securitized utility tariff bonds
394 with such charge to be reflected on a compliance tariff
395 sheet bearing such charge;

396 j. A method of tracing funds collected as securitized
397 utility tariff charges, or other proceeds of securitized
398 utility tariff property, determining that such method shall
399 be deemed the method of tracing such funds and determining
400 the identifiable cash proceeds of any securitized utility
401 tariff property subject to a financing order under
402 applicable law;

403 k. A statement specifying a future ratemaking process
404 to reconcile any differences between the actual securitized
405 utility tariff costs financed by securitized utility tariff
406 bonds and the final securitized utility tariff costs
407 incurred by the electrical corporation or assignee provided
408 that any such reconciliation shall not affect the amount of
409 securitized utility tariff bonds or the associated
410 securitized utility tariff charges paid by customers;

411 l. A procedure that shall allow the electrical
412 corporation to earn a return, at the cost of capital
413 authorized from time to time by the commission in the
414 electrical corporation's rate proceedings, on any moneys
415 advanced by the electrical corporation to fund reserves, if
416 any, or capital accounts established under the terms of any
417 indenture, ancillary agreement, or other financing documents
418 pertaining to the securitized utility tariff bonds;

419 m. In a financing order granting authorization to
420 securitize energy transition costs or in a financing order
421 granting authorization to securitize qualified extraordinary
422 costs that include retired or abandoned facility costs, a

423 procedure for the treatment of accumulated deferred income
424 taxes and excess deferred income taxes in connection with
425 the retired or abandoned or to be retired or abandoned
426 electric generating facility, or in connection with retired
427 or abandoned facilities included in qualified extraordinary
428 costs. The accumulated deferred income taxes, including
429 excess deferred income taxes, shall be excluded from rate
430 base in future general rate cases and the net tax benefits
431 relating to amounts that will be recovered through the
432 issuance of securitized utility tariff bonds shall be
433 credited to retail customers by reducing the amount of such
434 securitized utility tariff bonds that would otherwise be
435 issued. The customer credit shall include the net present
436 value of the tax benefits, calculated using a discount rate
437 equal to the expected interest rate of the securitized
438 utility tariff bonds, for the estimated accumulated and
439 excess deferred income taxes at the time of securitization
440 including timing differences created by the issuance of
441 securitized utility tariff bonds amortized over the period
442 of the bonds multiplied by the expected interest rate on
443 such securitized utility tariff bonds;

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

449 o. Include any other conditions that the commission
450 considers appropriate and that are not inconsistent with
451 this section.

452 (d) A financing order issued to an electrical
453 corporation may provide that creation of the electrical
454 corporation's securitized utility tariff property is

455 conditioned upon, and simultaneous with, the sale or other
456 transfer of the securitized utility tariff property to an
457 assignee and the pledge of the securitized utility tariff
458 property to secure securitized utility tariff bonds.

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

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

502 (g) The commission, in a financing order and subject
503 to the issuance advice letter process under paragraph (h) of
504 this subdivision, shall specify the degree of flexibility to
505 be afforded the electrical corporation in establishing the
506 terms and conditions for the securitized utility tariff
507 bonds to accommodate changes in market conditions, including
508 repayment schedules, interest rates, financing costs,
509 collateral requirements, required debt service and other
510 reserves and the ability of the electrical corporation, at
511 its option, to effect a series of issuances of securitized
512 utility tariff bonds and correlated assignments, sales,
513 pledges, or other transfers of securitized utility tariff
514 property. Any changes made under this paragraph to terms
515 and conditions for the securitized utility tariff bonds
516 shall be in conformance with the financing order.

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

549 to be issued, as the commission may require. Unless an
550 earlier date is specified in the financing order, the
551 electrical corporation may proceed with the issuance of the
552 securitized utility tariff bonds unless, prior to noon on
553 the fourth business day after the commission receives the
554 issuance advice letter, the commission issues a disapproval
555 letter directing that the bonds as proposed shall not be
556 issued and the basis for that disapproval. The financing
557 order may provide such additional provisions relating to the
558 issuance advice letter process as the commission considers
559 appropriate and as are not inconsistent with this section.

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

578 (b) If an electrical corporation's petition for a
579 financing order is denied or withdrawn, or for any reason
580 securitized utility tariff bonds are not issued, any costs

581 of retaining one or more financial advisors, one or more
582 consultants, and counsel on behalf of the commission shall
583 be paid by the petitioning electrical corporation and shall
584 be eligible for full recovery, including carrying costs, if
585 approved by the commission in the electrical corporation's
586 future rates.

587 (5) At the request of an electrical corporation, the
588 commission may commence a proceeding and issue a subsequent
589 financing order that provides for refinancing, retiring, or
590 refunding securitized utility tariff bonds issued pursuant
591 to the original financing order if the commission finds that
592 the subsequent financing order satisfies all of the criteria
593 specified in this section for a financing order. Effective
594 upon retirement of the refunded securitized utility tariff
595 bonds and the issuance of new securitized utility tariff
596 bonds, the commission shall adjust the related securitized
597 utility tariff charges accordingly.

598 (6) (a) A financing order remains in effect and
599 securitized utility tariff property under the financing
600 order continues to exist until securitized utility tariff
601 bonds issued pursuant to the financing order have been paid
602 in full or defeased and, in each case, all commission-
603 approved financing costs of such securitized utility tariff
604 bonds have been recovered in full.

605 (b) A financing order issued to an electrical
606 corporation remains in effect and unabated notwithstanding
607 the reorganization, bankruptcy, or other insolvency
608 proceedings, merger, or sale of the electrical corporation
609 or its successors or assignees.

610 3. (1) The commission may not, in exercising its
611 powers and carrying out its duties regarding any matter
612 within its authority, consider the securitized utility

613 tariff bonds issued pursuant to a financing order to be the
614 debt of the electrical corporation other than for federal
615 and state income tax purposes, consider the securitized
616 utility tariff charges paid under the financing order to be
617 the revenue of the electrical corporation for any purpose,
618 consider the securitized utility tariff costs or financing
619 costs specified in the financing order to be the costs of
620 the electrical corporation, nor may the commission determine
621 any action taken by an electrical corporation which is
622 consistent with the financing order to be unjust or
623 unreasonable, and section 386.300 shall not apply to the
624 issuance of securitized utility tariff bonds.

625 (2) Securitized utility tariff charges shall not be
626 utilized or accounted for in determining the electrical
627 corporation's average overall rate, as defined in section
628 393.1655 and as used to determine the maximum retail rate
629 impact limitations provided for by subsections 3 and 4 of
630 section 393.1655.

631 (3) No electrical corporation is required to file a
632 petition for a financing order under this section or
633 otherwise utilize this section. An electrical corporation's
634 decision not to file a petition for a financing order under
635 this section shall not be admissible in any commission
636 proceeding nor shall it be otherwise utilized or relied on
637 by the commission in any proceeding respecting the
638 electrical corporation's rates or its accounting, including,
639 without limitation, any general rate proceeding, fuel
640 adjustment clause docket, or proceedings relating to
641 accounting authority, whether initiated by the electrical
642 corporation or otherwise. The commission may not order or
643 otherwise directly or indirectly require an electrical
644 corporation to use securitized utility tariff bonds to

645 recover securitized utility tariff costs or to finance any
646 project, addition, plant, facility, extension, capital
647 improvement, equipment, or any other expenditure.

648 (4) The commission may not refuse to allow an
649 electrical corporation to recover securitized utility tariff
650 costs in an otherwise permissible fashion, or refuse or
651 condition authorization or approval of the issuance and sale
652 by an electrical corporation of securities or the assumption
653 by the electrical corporation of liabilities or obligations,
654 because of the potential availability of securitized utility
655 tariff bond financing.

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

677 made, but only if the electrical corporation requests
678 nonstandard plant retirement treatment of such costs for
679 rate-making purposes.

680 (6) The commission may not, directly or indirectly,
681 utilize or consider the debt reflected by the securitized
682 utility tariff bonds in establishing the electrical
683 corporation's capital structure used to determine any
684 regulatory matter, including but not limited to the
685 electrical corporation's revenue requirement used to set its
686 rates.

687 (7) The commission may not, directly or indirectly,
688 consider the existence of securitized utility tariff bonds
689 or the potential use of securitized utility tariff bond
690 financing proceeds in determining the electrical
691 corporation's authorized rate of return used to determine
692 the electrical corporation's revenue requirement used to set
693 its rates.

694 4. The electric bills of an electrical corporation
695 that has obtained a financing order and caused securitized
696 utility tariff bonds to be issued shall comply with the
697 provisions of this subsection; however, the failure of an
698 electrical corporation to comply with this subsection does
699 not invalidate, impair, or affect any financing order,
700 securitized utility tariff property, securitized utility
701 tariff charge, or securitized utility tariff bonds. The
702 electrical corporation shall do the following:

703 (1) Explicitly reflect that a portion of the charges
704 on such bill represents securitized utility tariff charges
705 approved in a financing order issued to the electrical
706 corporation and, if the securitized utility tariff property
707 has been transferred to an assignee, shall include a
708 statement to the effect that the assignee is the owner of

709 the rights to securitized utility tariff charges and that
710 the electrical corporation or other entity, if applicable,
711 is acting as a collection agent or servicer for the
712 assignee. The tariff applicable to customers shall indicate
713 the securitized utility tariff charge and the ownership of
714 the charge;

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

718 5. (1) (a) All securitized utility tariff property
719 that is specified in a financing order constitutes an
720 existing, present intangible property right or interest
721 therein, notwithstanding that the imposition and collection
722 of securitized utility tariff charges depends on the
723 electrical corporation, to which the financing order is
724 issued, performing its servicing functions relating to the
725 collection of securitized utility tariff charges and on
726 future electricity consumption. The property exists:

727 a. Regardless of whether or not the revenues or
728 proceeds arising from the property have been billed, have
729 accrued, or have been collected; and

730 b. Notwithstanding the fact that the value or amount
731 of the property is dependent on the future provision of
732 service to customers by the electrical corporation or its
733 successors or assignees and the future consumption of
734 electricity by customers.

735 (b) Securitized utility tariff property specified in a
736 financing order exists until securitized utility tariff
737 bonds issued pursuant to the financing order are paid in
738 full and all financing costs and other costs of such
739 securitized utility tariff bonds have been recovered in full.

740 (c) All or any portion of securitized utility tariff
741 property specified in a financing order issued to an
742 electrical corporation may be transferred, sold, conveyed,
743 or assigned to a successor or assignee that is wholly owned,
744 directly or indirectly, by the electrical corporation and
745 created for the limited purpose of acquiring, owning, or
746 administering securitized utility tariff property or issuing
747 securitized utility tariff bonds under the financing order.
748 All or any portion of securitized utility tariff property
749 may be pledged to secure securitized utility tariff bonds
750 issued pursuant to the financing order, amounts payable to
751 financing parties and to counterparties under any ancillary
752 agreements, and other financing costs. Any transfer, sale,
753 conveyance, assignment, grant of a security interest in or
754 pledge of securitized utility tariff property by an
755 electrical corporation, or an affiliate of the electrical
756 corporation, to an assignee, to the extent previously
757 authorized in a financing order, does not require the prior
758 consent and approval of the commission.

759 (d) If an electrical corporation defaults on any
760 required remittance of securitized utility tariff charges
761 arising from securitized utility tariff property specified
762 in a financing order, a court, upon application by an
763 interested party, and without limiting any other remedies
764 available to the applying party, shall order the
765 sequestration and payment of the revenues arising from the
766 securitized utility tariff property to the financing parties
767 or their assignees. Any such financing order remains in
768 full force and effect notwithstanding any reorganization,
769 bankruptcy, or other insolvency proceedings with respect to
770 the electrical corporation or its successors or assignees.

771 (e) The interest of a transferee, purchaser, acquirer,
772 assignee, or pledgee in securitized utility tariff property
773 specified in a financing order issued to an electrical
774 corporation, and in the revenue and collections arising from
775 that property, is not subject to setoff, counterclaim,
776 surcharge, or defense by the electrical corporation or any
777 other person or in connection with the reorganization,
778 bankruptcy, or other insolvency of the electrical
779 corporation or any other entity.

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

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

800 (2) (a) The creation, perfection, priority, and
801 enforcement of any security interest in securitized utility
802 tariff property to secure the repayment of the principal and

803 interest and other amounts payable in respect of securitized
804 utility tariff bonds, amounts payable under any ancillary
805 agreement and other financing costs are governed by this
806 section and not by the provisions of the code, except as
807 otherwise provided in this section.

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

811 a. The financing order is issued;

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

814 c. The debtor has rights in such securitized utility
815 tariff property or the power to transfer rights in such
816 securitized utility tariff property; or

817 d. Value is received for the securitized utility
818 tariff property.

819 The description of securitized utility tariff property in a
820 security agreement is sufficient if the description refers
821 to this section and the financing order creating the
822 securitized utility tariff property. A security interest
823 shall attach as provided in this paragraph without any
824 physical delivery of collateral or other act.

825 (c) Upon the filing of a financing statement with the
826 office of the secretary of state as provided in this
827 section, a security interest in securitized utility tariff
828 property shall be perfected against all parties having
829 claims of any kind in tort, contract, or otherwise against
830 the person granting the security interest, and regardless of
831 whether the parties have notice of the security interest.
832 Without limiting the foregoing, upon such filing a security
833 interest in securitized utility tariff property shall be

834 perfected against all claims of lien creditors, and shall
835 have priority over all competing security interests and
836 other claims other than any security interest previously
837 perfected in accordance with this section.

838 (d) The priority of a security interest in securitized
839 utility tariff property is not affected by the commingling
840 of securitized utility tariff charges with other amounts.
841 Any pledgee or secured party shall have a perfected security
842 interest in the amount of all securitized utility tariff
843 charges that are deposited in any cash or deposit account of
844 the qualifying electrical corporation in which securitized
845 utility tariff charges have been commingled with other funds
846 and any other security interest that may apply to those
847 funds shall be terminated when they are transferred to a
848 segregated account for the assignee or a financing party.

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

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

866 order the sequestration and payment to them of revenues
867 arising from the securitized utility tariff charges.

868 (3) (a) Any sale, assignment, or other transfer of
869 securitized utility tariff property shall be an absolute
870 transfer and true sale of, and not a pledge of or secured
871 transaction relating to, the seller's right, title, and
872 interest in, to, and under the securitized utility tariff
873 property if the documents governing the transaction
874 expressly state that the transaction is a sale or other
875 absolute transfer other than for federal and state income
876 tax purposes. For all purposes other than federal and state
877 income tax purposes, the parties' characterization of a
878 transaction as a sale of an interest in securitized utility
879 tariff property shall be conclusive that the transaction is
880 a true sale and that ownership has passed to the party
881 characterized as the purchaser, regardless of whether the
882 purchaser has possession of any documents evidencing or
883 pertaining to the interest. A sale or similar outright
884 transfer of an interest in securitized utility tariff
885 property may occur only when all of the following have
886 occurred:

887 a. The financing order creating the securitized
888 utility tariff property has become effective;

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

892 c. Value is received for the securitized utility
893 tariff property.

894 After such a transaction, the securitized utility tariff
895 property is not subject to any claims of the transferor or
896 the transferor's creditors, other than creditors holding a

897 prior security interest in the securitized utility tariff
898 property perfected in accordance with this section.

899 (b) The characterization of the sale, assignment, or
900 other transfer as an absolute transfer and true sale and the
901 corresponding characterization of the property interest of
902 the purchaser shall not be affected or impaired by the
903 occurrence of any of the following factors:

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

906 b. The retention by the seller of (i) a partial or
907 residual interest, including an equity interest, in the
908 securitized utility tariff property, whether direct or
909 indirect, or whether subordinate or otherwise, or (ii) the
910 right to recover costs associated with taxes, franchise
911 fees, or license fees imposed on the collection of
912 securitized utility tariff charges;

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

915 d. Any indemnification rights, obligations, or
916 repurchase rights made or provided by the seller;

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

919 f. The transferor acting as the servicer of the
920 securitized utility tariff charges or the existence of any
921 contract that authorizes or requires the electrical
922 corporation, to the extent that any interest in securitized
923 utility tariff property is sold or assigned, to contract
924 with the assignee or any financing party that it will
925 continue to operate its system to provide service to its
926 customers, will collect amounts in respect of the
927 securitized utility tariff charges for the benefit and
928 account of such assignee or financing party, and will

929 account for and remit such amounts to or for the account of
930 such assignee or financing party;

931 g. The treatment of the sale, conveyance, assignment,
932 or other transfer for tax, financial reporting, or other
933 purposes;

934 h. The granting or providing to bondholders a
935 preferred right to the securitized utility tariff property
936 or credit enhancement by the electrical corporation or its
937 affiliates with respect to such securitized utility tariff
938 bonds;

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

941 (c) Any right that an electrical corporation has in
942 the securitized utility tariff property before its pledge,
943 sale, or transfer or any other right created under this
944 section or created in the financing order and assignable
945 under this section or assignable pursuant to a financing
946 order is property in the form of a contract right or a chose
947 in action. Transfer of an interest in securitized utility
948 tariff property to an assignee is enforceable only upon the
949 later of:

950 a. The issuance of a financing order;

951 b. The assignor having rights in such securitized
952 utility tariff property or the power to transfer rights in
953 such securitized utility tariff property to an assignee;

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

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

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

966 (d) The priority of a transfer perfected under this
967 section is not impaired by any later modification of the
968 financing order or securitized utility tariff property or by
969 the commingling of funds arising from securitized utility
970 tariff property with other funds. Any other security
971 interest that may apply to those funds, other than a
972 security interest perfected under this section, is
973 terminated when they are transferred to a segregated account
974 for the assignee or a financing party. If securitized
975 utility tariff property has been transferred to an assignee
976 or financing party, any proceeds of that property shall be
977 held in trust for the assignee or financing party.

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

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

985 b. A perfected interest or right of an assignee has
986 priority over a conflicting unperfected interest or right of
987 an assignee;

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

991 6. The description of securitized utility tariff
992 property being transferred to an assignee in any sale
993 agreement, purchase agreement, or other transfer agreement,
994 granted or pledged to a pledgee in any security agreement,
995 pledge agreement, or other security document, or indicated
996 in any financing statement is only sufficient if such
997 description or indication refers to the financing order that
998 created the securitized utility tariff property and states
999 that the agreement or financing statement covers all or part
1000 of the property described in the financing order. This
1001 section applies to all purported transfers of, and all
1002 purported grants or liens or security interests in,
1003 securitized utility tariff property, regardless of whether
1004 the related sale agreement, purchase agreement, other
1005 transfer agreement, security agreement, pledge agreement, or
1006 other security document was entered into, or any financing
1007 statement was filed.

1008 7. The secretary of state shall maintain any financing
1009 statement filed to perfect a sale or other transfer of
1010 securitized utility tariff property and any security
1011 interest in securitized utility tariff property under this
1012 section in the same manner that the secretary of state
1013 maintains financing statements filed under the code to
1014 perfect a security interest in collateral owned by a
1015 transmitting utility. Except as otherwise provided in this
1016 section, all financing statements filed pursuant to this
1017 section shall be governed by the provisions regarding
1018 financing statements and the filing thereof under the code,
1019 including part 5 of article 9 of the code. A security
1020 interest in securitized utility tariff property may be
1021 perfected only by the filing of a financing statement in
1022 accordance with this section, and no other method of

1023 perfection shall be effective. Notwithstanding any
1024 provision of the code to the contrary, a financing statement
1025 filed pursuant to this section is effective until a
1026 termination statement is filed under the code, and no
1027 continuation statement need be filed to maintain its
1028 effectiveness. A financing statement filed pursuant to this
1029 section may indicate that the debtor is a transmitting
1030 utility, and without regard to whether the debtor is an
1031 electrical corporation, an assignee or otherwise qualifies
1032 as a transmitting utility under the code, but the failure to
1033 make such indication shall not impair the duration and
1034 effectiveness of the financing statement.

1035 8. The law governing the validity, enforceability,
1036 attachment, perfection, priority, and exercise of remedies
1037 with respect to the transfer of an interest or right or the
1038 pledge or creation of a security interest in any securitized
1039 utility tariff property shall be the laws of this state.

1040 9. Neither the state nor its political subdivisions
1041 are liable on any securitized utility tariff bonds, and the
1042 bonds are not a debt or a general obligation of the state or
1043 any of its political subdivisions, agencies, or
1044 instrumentalities, nor are they special obligations or
1045 indebtedness of the state or any agency or political
1046 subdivision. An issue of securitized utility tariff bonds
1047 does not, directly, indirectly, or contingently, obligate
1048 the state or any agency, political subdivision, or
1049 instrumentality of the state to levy any tax or make any
1050 appropriation for payment of the securitized utility tariff
1051 bonds, other than in their capacity as consumers of
1052 electricity. All securitized utility tariff bonds shall
1053 contain on the face thereof a statement to the following
1054 effect: "Neither the full faith and credit nor the taxing

1055 power of the state of Missouri is pledged to the payment of
1056 the principal of, or interest on, this bond.".

1057 10. All of the following entities may legally invest
1058 any sinking funds, moneys, or other funds in securitized
1059 utility tariff bonds:

1060 (1) Subject to applicable statutory restrictions on
1061 state or local investment authority, the state, units of
1062 local government, political subdivisions, public bodies, and
1063 public officers, except for members of the commission, the
1064 commission's technical advisory and other staff, or
1065 employees of the office of the public counsel;

1066 (2) Banks and bankers, savings and loan associations,
1067 credit unions, trust companies, savings banks and
1068 institutions, investment companies, insurance companies,
1069 insurance associations, and other persons carrying on a
1070 banking or insurance business;

1071 (3) Personal representatives, guardians, trustees, and
1072 other fiduciaries;

1073 (4) All other persons authorized to invest in bonds or
1074 other obligations of a similar nature.

1075 11. (1) The state and its agencies, including the
1076 commission, pledge and agree with bondholders, the owners of
1077 the securitized utility tariff property, and other financing
1078 parties that the state and its agencies will not take any
1079 action listed in this subdivision. This subdivision does
1080 not preclude limitation or alteration if full compensation
1081 is made by law for the full protection of the securitized
1082 utility tariff charges collected pursuant to a financing
1083 order and of the bondholders and any assignee or financing
1084 party entering into a contract with the electrical
1085 corporation. The prohibited actions are as follows:

1086 (a) Alter the provisions of this section, which
1087 authorize the commission to create an irrevocable contract
1088 right or chose in action by the issuance of a financing
1089 order, to create securitized utility tariff property, and
1090 make the securitized utility tariff charges imposed by a
1091 financing order irrevocable, binding, or nonbypassable
1092 charges for all existing and future retail customers of the
1093 electrical corporation except its existing special contract
1094 customers;

1095 (b) Take or permit any action that impairs or would
1096 impair the value of securitized utility tariff property or
1097 the security for the securitized utility tariff bonds or
1098 revises the securitized utility tariff costs for which
1099 recovery is authorized;

1100 (c) In any way impair the rights and remedies of the
1101 bondholders, assignees, and other financing parties;

1102 (d) Except for changes made pursuant to the formula-
1103 based true-up mechanism authorized under this section,
1104 reduce, alter, or impair securitized utility tariff charges
1105 that are to be imposed, billed, charged, collected, and
1106 remitted for the benefit of the bondholders, any assignee,
1107 and any other financing parties until any and all principal,
1108 interest, premium, financing costs and other fees, expenses,
1109 or charges incurred, and any contracts to be performed, in
1110 connection with the related securitized utility tariff bonds
1111 have been paid and performed in full.

1112 (2) Any person or entity that issues securitized
1113 utility tariff bonds may include the language specified in
1114 this subsection in the securitized utility tariff bonds and
1115 related documentation.

1116 12. An assignee or financing party is not an
1117 electrical corporation or person providing electric service

1118 by virtue of engaging in the transactions described in this
1119 section.

1120 13. If there is a conflict between this section and
1121 any other law regarding the attachment, assignment, or
1122 perfection, or the effect of perfection, or priority of,
1123 assignment or transfer of, or security interest in
1124 securitized utility tariff property, this section shall
1125 govern.

1126 14. If any provision of this section is held invalid
1127 or is invalidated, superseded, replaced, repealed, or
1128 expires for any reason, that occurrence does not affect the
1129 validity of any action allowed under this section which is
1130 taken by an electrical corporation, an assignee, a financing
1131 party, a collection agent, or a party to an ancillary
1132 agreement; and any such action remains in full force and
1133 effect with respect to all securitized utility tariff bonds
1134 issued or authorized in a financing order issued under this
1135 section before the date that such provision is held invalid
1136 or is invalidated, superseded, replaced, or repealed, or
1137 expires for any reason.

523.010. 1. In case land, or other property, is
2 sought to be appropriated by any road, railroad, street
3 railway, telephone, telegraph or any electrical corporation
4 organized for the manufacture or transmission of electric
5 current for light, heat or power, including the
6 construction, when that is the case, of necessary dams and
7 appurtenant canals, flumes, tunnels and tailraces and
8 including the erection, when that is the case, of necessary
9 electric steam powerhouses, hydroelectric powerhouses and
10 electric substations or any oil, pipeline or gas corporation
11 engaged in the business of transporting or carrying oil,
12 liquid fertilizer solutions, or gas by means of pipes or

13 pipelines laid underneath the surface of the ground, or
14 other corporation created under the laws of this state for
15 public use, and such corporation and the owners cannot agree
16 upon the proper compensation to be paid, or in the case the
17 owner is incapable of contracting, be unknown, or be a
18 nonresident of the state, such corporation may apply to the
19 circuit court of the county of this state where such land or
20 any part thereof lies by petition setting forth the general
21 directions in which it is desired to construct its road,
22 railroad, street railway, telephone, or telegraph line or
23 electric line, including, when that is the case, the
24 construction and maintenance of necessary dams and
25 appurtenant canals, tunnels, flumes and tailraces and, when
26 that is the case, the appropriation of land submerged by the
27 construction of such dam, and including the erection and
28 maintenance, when that is the case, of necessary electric
29 steam powerhouses, hydroelectric powerhouses and electric
30 substations, or oil, pipeline, liquid fertilizer solution
31 pipeline, or gas line over or underneath the surface of such
32 lands, a description of the real estate, or other property,
33 which the company seeks to acquire; the names of the owners
34 thereof, if known; or if unknown, a pertinent description of
35 the property whose owners are unknown and praying the
36 appointment of three disinterested residents of the county,
37 as commissioners, or a jury, to assess the damages which
38 such owners may severally sustain in consequence of the
39 establishment, erection and maintenance of such road,
40 railroad, street railway, telephone, telegraph line, or
41 electrical line including damages from the construction and
42 maintenance of necessary dams and the condemnation of land
43 submerged thereby, and the construction and maintenance of
44 appurtenant canals, flumes, tunnels and tailraces and the

45 erection and maintenance of necessary electric steam
46 powerhouses, hydroelectric powerhouses and electric
47 substations, or oil, pipeline, or gas line over or
48 underneath the surface of such lands; to which petition the
49 owners of any or all as the plaintiff may elect of such
50 parcels as lie within the county or circuit may be made
51 parties defendant by names if the names are known, and by
52 the description of the unknown owners of the land therein
53 described if their names are unknown.

54 2. If the proceedings seek to affect the lands of
55 persons under conservatorship, the conservators must be made
56 parties defendant. If the present owner of any land to be
57 affected has less estate than a fee, the person having the
58 next vested estate in remainder may at the option of the
59 petitioners be made party defendant; but if such
60 remaindermen are not made parties, their interest shall not
61 be bound by the proceedings.

62 3. It shall not be necessary to make any persons party
63 defendants in respect to their ownership unless they are
64 either in actual possession of the premises to be affected
65 claiming title or having a title of the premises appearing
66 of record upon the proper records of the county.

67 4. Except as provided in subsection 5 of this section,
68 nothing in this chapter shall be construed to give a public
69 utility, as defined in section 386.020, or a rural electric
70 cooperative, as provided in chapter 394, the power to
71 condemn property which is currently used by another provider
72 of public utility service, including a municipality or a
73 special purpose district, when such property is used or
74 useful in providing utility services, if the public utility
75 or cooperative seeking to condemn such property, directly or
76 indirectly, will use or proposes to use the property for the

77 same purpose, or a purpose substantially similar to the
78 purpose for which the property is being used by the provider
79 of the public utility service.

80 5. A public utility or a rural electric cooperative
81 may only condemn the property of another provider of public
82 utility service, even if the property is used or useful in
83 providing utility services by such provider, if the
84 condemnation is necessary for the public purpose of
85 acquiring a nonexclusive easement or right-of-way across the
86 property of such provider and only if the acquisition will
87 not materially impair or interfere with the current use of
88 such property by the utility or cooperative and will not
89 prevent or materially impair such provider of public utility
90 service from any future expansion of its facilities on such
91 property.

92 6. If a public utility or rural electric cooperative
93 seeks to condemn the property of another provider of public
94 utility service, and the conditions in subsection 4 of this
95 section do not apply, this section does not limit the
96 condemnation powers otherwise possessed by such public
97 utility or rural electric cooperative.

98 7. Suits in inverse condemnation or involving
99 dangerous conditions of public property against a municipal
100 corporation established under Article VI, Section 30(a) of
101 the Missouri Constitution shall be brought only in the
102 county where such land or any part thereof lies.

103 8. For purposes of this chapter, the authority for an
104 electrical corporation as defined in section 386.020, except
105 for an electrical corporation operating under a cooperative
106 business plan as described in section 393.110, to condemn
107 property for purposes of constructing an electric plant
108 subject to a certificate of public convenience and necessity

109 under subsection 1 of section 393.170 shall not extend to
110 the construction of a merchant transmission line with
111 Federal Energy Regulatory Commission negotiated rate
112 authority unless such line has a substation or converter
113 station located in Missouri which is capable of delivering
114 an amount of its electrical capacity to electrical customers
115 in this state that is greater than or equal to the
116 proportionate number of miles of the line that passes
117 through the state. The provisions of this subsection shall
118 not apply to applications filed pursuant to section 393.170
119 prior to August 28, 2022.

120 **9. For the purposes of this chapter, the authority of**
121 **any corporation set forth in subsection 1 of this section to**
122 **condemn property shall not extend to:**

123 **(1) The construction or erection of any plant, tower,**
124 **panel, or facility that utilizes, captures, or converts wind**
125 **or air currents to generate or manufacture electricity; or**

126 **(2) The construction or erection of any plant, tower,**
127 **panel, or facility that utilizes, captures, or converts the**
128 **light or heat generated by the sun to generate or**
129 **manufacture electricity.**

130 **10. Subject to the provisions of subsection 8 of this**
131 **section, but notwithstanding the provisions of subsection 9**
132 **of this section to the contrary, the authority of any**
133 **corporation set forth in subsection 1 of this section to**
134 **condemn property shall extend to acquisition of rights**
135 **needed to construct, operate, and maintain collection lines,**
136 **distribution lines, transmission lines, communications**
137 **lines, substations, switchyards, and other facilities needed**
138 **to collect and deliver energy generated or manufactured by**
139 **the facilities described in subsection 9 of this section to**
140 **the distribution or transmission grid.**

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

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

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

5 and

6 (3) Within five years of August 28, 2020,

7 identification of each shut-off valve location using a
8 geographic information system or an alternative physical
9 mapping system that accurately identifies the location of
10 each valve.

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

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

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

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

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

19 (5) Within five years of August 28, 2020,

20 identification of each hydrant location using a geographic
21 information system or an alternative physical mapping system
22 that accurately identifies the location of each hydrant.

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

✓