

FIRST REGULAR SESSION

# HOUSE BILL NO. 935

100TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE O'DONNELL.

1950H.011

DANA RADEMAN MILLER, Chief Clerk

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## AN ACT

To amend chapter 386, RSMo, by adding thereto eighteen new sections relating to financing for electrical corporations.

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

Section A. Chapter 386, RSMo, is amended by adding thereto eighteen new sections, to be known as sections 386.900, 386.905, 386.910, 386.915, 386.920, 386.925, 386.930, 386.935, 386.940, 386.945, 386.950, 386.955, 386.960, 386.965, 386.970, 386.975, 386.980, and 386.985, to read as follows:

**386.900. Sections 386.900 to 386.985 shall be known and cited as the "Missouri Electricity Bill Reduction Assistance Act".**

**386.905. 1. The general assembly declares that:**

**(1) Missouri's electric utilities continue to face the need to better manage the high costs of operating existing electric generating facilities, reducing electricity costs for customers, and ensuring the health and well-being of Missouri's residents and environment;**

**(2) The possible closure of electric generating facilities may have direct impacts on Missouri communities in which the facilities are located;**

**(3) Missouri electricity consumers have an interest in ensuring their electrical corporations are providing efficient and cost-effective electric generation;**

**(4) Alternative financing mechanisms exist, used by twenty-one other states, that could result in lower costs for Missouri electricity consumers, and the use of such mechanisms can ensure that the costs of retiring electric generating facilities located in the state and the impact of such retirements on costs directly affecting Missouri communities**

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

14 and electric generating facility workers can be financed in a way that reduces the total  
15 costs of electricity generation;

16 (5) Customer costs of alternative financing mechanisms can be minimized by  
17 achieving the highest possible credit quality, including the highest possible credit rating  
18 from independent credit rating agencies, which requires special conditions, including:

19 (a) The use of limited purpose bankruptcy-remote, or ring-fenced financing, entities  
20 to issue ratepayer-backed bonds with a dedicated charge to pay interest and principal on  
21 the bonds;

22 (b) The creation of a properly structured and implemented adjustment mechanism  
23 to adjust the charge dedicated to the repayment of the bonds to enable consistent, accurate,  
24 and timely remittances to the financing entities for the benefit of bondholders; and

25 (c) A state pledge that constitutes an enforceable guarantee of regulatory action to  
26 continued imposition and adjustment of the charge so as to guarantee the payment of  
27 principal and interest on securitized investor-owned electrical corporation ratepayer-  
28 backed bonds solely from the dedicated charge as those amounts become legally due and  
29 owing, and do not impair the rights of bondholders to those amounts;

30 (6) To implement this alternative financing mechanism, it is necessary to authorize  
31 the commission to review and approve one or more financing orders that achieve these  
32 goals if it deems such approval appropriate and in the interest of electrical corporation  
33 customers.

34 2. The general assembly further finds and declares that:

35 (1) The primary purpose of sections 386.900 to 386.985 is to authorize the issuance  
36 of low-cost securitized ratepayer-backed bonds, the proceeds of which shall be used solely:

37 (a) To lower rates paid by electrical corporation customers by reducing financing  
38 costs of certain retired electric generating facilities and related costs;

39 (b) To provide transition assistance to Missouri communities and electric  
40 generating facility workers that are directly impacted by the retirement of electric  
41 generating facilities; and

42 (c) To make available capital investment for renewable facilities and services  
43 including least-cost electric generating facilities and other supply-side and demand-side  
44 resources;

45 (2) It is therefore in the interest of the state and its citizens to encourage and  
46 facilitate the use of securitized ratepayer-backed bonds as a method for enabling electrical  
47 corporations to lower the cost of financing, and to empower the commission to review  
48 securitization mechanisms to determine whether they are consistent with the public  
49 interest.

**386.910. As used in sections 386.900 to 386.985, the following terms shall mean:**

- 2           **(1) "Ancillary agreement", any bond, insurance policy, letter of credit, reserve**  
3 **account, surety bond, interest rate lock or swap arrangement, hedging arrangement,**  
4 **liquidity or credit support arrangement, or other financial arrangement entered into in**  
5 **connection with MO-EBRA bonds that is designed to promote the credit quality and**  
6 **marketability of the MO-EBRA bonds or to mitigate the risk of an increase in interest**  
7 **rates;**
- 8           **(2) "Assignee", any person to which an interest in MO-EBRA property is sold,**  
9 **assigned, transferred, or conveyed, other than as security, and any successor to or**  
10 **subsequent assignee of such person;**
- 11           **(3) "Bondholder", any holder or owner of MO-EBRA bonds;**
- 12           **(4) "Customer", a person that takes electric distribution or electric transmission**  
13 **service from an electrical corporation for consumption of electricity in the state;**
- 14           **(5) "Financing costs", if approved by the commission in a financing order, costs to**  
15 **issue, service, repay, or refinance MO-EBRA bonds, whether incurred or paid upon**  
16 **issuance of the MO-EBRA bonds or over the life of the MO-EBRA bonds, and includes:**
- 17           **(a) Principal, interest, and redemption premiums that are payable on MO-EBRA**  
18 **bonds;**
- 19           **(b) Any payment required under an ancillary agreement and any amount required**  
20 **to fund or replenish a reserve account or other accounts established under the terms of any**  
21 **indenture, ancillary agreement, or other financing document pertaining to MO-EBRA**  
22 **bonds;**
- 23           **(c) Any other demonstrable costs related to issuing, supporting, repaying,**  
24 **refunding, and servicing MO-EBRA bonds including, but not limited to, servicing fees,**  
25 **accounting and auditing fees, trustee fees, legal fees, consulting fees, financial advisor fees,**  
26 **administrative fees, placement and underwriting fees, capitalized interest, rating agency**  
27 **fees, stock exchange listing and compliance fees, security registration fees, filing fees,**  
28 **information technology programming costs, and any other demonstrable costs necessary**  
29 **to otherwise ensure and guarantee the timely payment of MO-EBRA bonds or other**  
30 **amounts or charges payable in connection with MO-EBRA bonds;**
- 31           **(d) Any taxes and license fees imposed on the revenue generated from the collection**  
32 **of MO-EBRA charges;**
- 33           **(e) Any state and local taxes including franchise, sales and use, and other taxes or**  
34 **similar charges including, but not limited to, regulatory assessment fees, whether paid,**  
35 **payable, or accrued; and**

36 (f) Any costs incurred by the commission to hire and compensate additional  
37 temporary staff needed to perform its responsibilities under sections 386.900 to 386.985  
38 and engage specialized counsel and expert consultants experienced in securitized electrical  
39 corporation ratepayer-backed bond financing similar to MO-EBRA bonds;

40 (6) "Financing order", an order of the commission that grants, in whole or in part,  
41 an application filed under section 386.915 that authorizes the issuance of MO-EBRA bonds  
42 in one or more series, the imposition, charging, and collection of MO-EBRA charges, and  
43 the creation of MO-EBRA property. In a financing order, the commission may include any  
44 conditions that are necessary to promote the public interest and may grant relief that is  
45 different from that which was requested in the application so long as the relief is within the  
46 scope of the matters addressed in the commission's notice of the application;

47 (7) "Financing party", holders of MO-EBRA bonds and trustees, collateral agents,  
48 any party under an ancillary agreement, or any other person acting for the benefit of  
49 holders of MO-EBRA bonds;

50 (8) "Least-cost generation resource", an incremental supply-side or demand-side  
51 resource that when included in an electrical corporation's generation portfolio produces  
52 the lowest cost among alternative resources, considering both short-term and long-term  
53 costs and assessing the likelihood of changes in future fuel prices and future environmental  
54 requirements, among other considerations;

55 (9) "Lowest cost objective", the structuring, marketing, and pricing of MO-EBRA  
56 bonds that results in the lowest MO-EBRA charges consistent with prevailing market  
57 conditions on or about the time of pricing MO-EBRA bonds, and the structure and terms  
58 of MO-EBRA bonds approved under the financial order;

59 (10) "MO-EBRA", Missouri electricity bill reduction assistance;

60 (11) "MO-EBRA bonds", low-cost corporate securities, such as senior secured  
61 bonds, debentures, notes, certificates of participation, certificates of beneficial interest,  
62 certificates of ownership, or other evidences of indebtedness or ownership that have a  
63 scheduled maturity of no longer than thirty years and a final legal maturity date that is not  
64 later than thirty-two years from the issue date, that are rated AA or AA2 or better by a  
65 major independent credit rating agency at the time of issuance, and that are issued by an  
66 electrical corporation or an assignee under a financing order, the proceeds of which are  
67 used to recover, finance, or refinance commission-approved MO-EBRA costs and financing  
68 costs, including assistance to affected workers and communities, and that are secured by  
69 or payable from MO-EBRA property. If certificates of participation or ownership are  
70 issued, references in sections 386.900 to 386.980 to principal, interest, or premium refer to  
71 comparable amounts under such certificates;

72           **(12) "MO-EBRA charges", charges in amounts determined appropriate by the**  
73 **commission and authorized by the commission in a financing order in order to provide a**  
74 **source of revenue solely to repay, finance, or refinance MO-EBRA costs and financing**  
75 **costs that are imposed on, and are a part of, all customer bills and are collected in full by**  
76 **the electrical corporation to which the financing order applies, by the electrical**  
77 **corporation's successors or assignees, or a collection agent through a non-bypassable**  
78 **charge that is separate and apart from the electrical corporation's base rates;**

79           **(13) "MO-EBRA costs":**

80           **(a) The pretax costs that the electrical corporation has incurred, or will incur, that**  
81 **are caused by, associated with, or remain as a result of the retirement of an electric**  
82 **generating facility located in the state;**

83           **(b) The pretax costs that the electrical corporation has incurred, or will incur, in**  
84 **providing transition assistance to Missouri communities and electric generating facility**  
85 **workers that are directly impacted by the retirement of electric generating facilities;**

86           **(c) The pretax costs that the electrical corporation has incurred or will incur in**  
87 **constructing or acquiring renewable facilities and services, including least-cost generation**  
88 **resources and other supply-side and demand-side resources;**

89           **(d) Any reasonable and necessary administrative and operating costs as required**  
90 **by a financing order; and**

91           **(e) Do not include any monetary penalty, fine, or forfeiture assessed against an**  
92 **electrical corporation by a government agency or court under a federal or state**  
93 **environmental statute, rule, or regulation;**

94           **(14) "MO-EBRA property":**

95           **(a) All rights and interests of an electrical corporation, or successor or assignee of**  
96 **an electrical corporation, under a financing order for the right to impose, bill, collect, and**  
97 **receive MO-EBRA charges as it is authorized to do so solely under the financing order, and**  
98 **to obtain periodic adjustments to such MO-EBRA charges as provided in the financing**  
99 **order; and**

100           **(b) All revenue, collections, claims, rights to payments, payments, moneys, or**  
101 **proceeds arising from the rights and interests, regardless of whether such revenue,**  
102 **collections, claims, rights to payment, payments, moneys, or proceeds are imposed, billed,**  
103 **received, collected, or maintained together with or commingled with other revenue,**  
104 **collections, rights to payment, payments, moneys, or proceeds;**

105           **(15) "MO-EBRA revenue", all revenue, receipts, collections, payments, moneys,**  
106 **claims, or other proceeds arising from MO-EBRA property;**

107           **(16) "Non-bypassable", the payment of MO-EBRA charges required to repay**  
108 **bonds and related costs that shall not be avoided by any existing or future customer located**  
109 **within an electrical corporation's certificated service territory, but shall be paid by:**

110           **(a) All existing and future customers receiving transmission or distribution service**  
111 **from the electrical corporation or its successors or assignees under commission-approved**  
112 **rate schedules or under special contracts, even if a customer is in the future allowed and**  
113 **elects to purchase electricity from an electric supplier other than the electrical corporation;**  
114 **and**

115           **(b) Any person located within the electrical corporation's certificated service**  
116 **territory that may subsequently receive electric transmission or distribution service from**  
117 **another electric utility operating in the same service territory;**

118           **(17) "Pretax costs", include, but are not limited to, the unrecovered capitalized cost**  
119 **of a retired electric generating facility, costs of de-commissioning and restoring the site of**  
120 **the electric generating facility, and other applicable capital and operating costs, accrued**  
121 **carrying charges, deferred expenses, reductions for applicable insurance and salvage**  
122 **proceeds and the costs of retiring any existing indebtedness, fees, costs, and expenses to**  
123 **modify existing debt agreements or for waivers or consents related to existing debt**  
124 **agreements. Pretax costs include only those costs and expenses approved by the**  
125 **commission;**

126           **(18) "Successor", with respect to any legal entity, another legal entity that succeeds**  
127 **by operation of law to the rights and obligations of the first legal entity under any**  
128 **bankruptcy, reorganization, restructuring, other insolvency proceeding, merger,**  
129 **acquisition, consolidation, or sale or transfer of assets, whether any of these occur due to**  
130 **a restructuring of the electric power industry or otherwise;**

131           **(19) "Transition assistance", assistance from MO-EBRA bond proceeds**  
132 **transferred by an electrical corporation under the terms of a financing order to assist**  
133 **Missouri communities that are directly impacted by the retirement of an electric generating**  
134 **facility which is the subject of a financing order and may include, without limitation:**

135           **(a) Payment of retraining costs, including costs of any apprenticeship program or**  
136 **skilled worker training program for directly displaced electric generating facility workers;**

137           **(b) Financial assistance for directly displaced electric generating facility workers;**

138           **(c) For a period of no more than five years, compensation to local governments for**  
139 **losses of property tax revenue resulting directly from the retirement of the electric**  
140 **generating facility, which compensation may be reduced annually during the period during**  
141 **which it is provided; and**

142 (d) Job retraining and education for workers who are Missouri residents who were  
143 directly involved in the transport of fuel to a retired Missouri electric generating facility  
144 and who were laid off or experience reduced work schedules resulting from the retirement  
145 of the electric generating facility.

386.915. 1. An electrical corporation may apply to the commission for a financing  
2 order, as such order is defined under section 386.910 and described under sections 386.920  
3 and 386.925. In such application, an electrical corporation may file an application for  
4 approval to issue MO-EBRA bonds in one or more series; impose, charge, and collect MO-  
5 EBRA charges; and create MO-EBRA property related to the retirement of an electric  
6 generating facility in Missouri that has previously been approved by the commission or for  
7 any other purpose described in subdivision (6) of subsection 1 of section 386.905. The  
8 commission shall take final action to approve, deny, or modify any application for a  
9 financing order as described in subsection 2 of this section in a final order issued in  
10 accordance with the commission's rules for addressing applications.

11 2. In addition to any other information required by the commission, an application  
12 for a financing order shall include the following information:

13 (1) An estimated schedule for the retirement of any facility, the costs of which are  
14 to be financed by the MO-EBRA bond financing;

15 (2) A proposed methodology for allocating the revenue requirement for the MO-  
16 EBRA charges among customer classes;

17 (3) A description of the non-bypassable MO-EBRA charges required to be paid by  
18 customers within the electrical corporation's certificated service territory for recovery of  
19 MO-EBRA costs;

20 (4) An estimate of the net present value of electrical corporation customer savings  
21 expected to result if the financing order is issued as determined by a net present value  
22 comparison between the costs to customers that are expected to result from the financing  
23 with MO-EBRA bonds and the costs that would result from the application of traditional  
24 electrical corporation financing mechanisms for the same purposes; and

25 (5) One or more alternative financing scenarios in addition to the preferred  
26 scenario contained in the application.

386.920. 1. Following notice and hearing on an application for a financing order  
2 as required by the commission's rules, practices, and procedures, the commission may issue  
3 a financing order if the commission finds that:

4 (1) The MO-EBRA costs described in the application are reasonable;

5 (2) The proposed issuance of MO-EBRA bonds and the imposition and collection  
6 of MO-EBRA charges:

- 7           **(a) Are just and reasonable;**  
8           **(b) Are consistent with the public interest; and**  
9           **(c) Constitute a prudent and reasonable mechanism for the financing of the MO-**  
10 **EBRA costs described in the financing order application; and**  
11           **(3) The proposed structuring, marketing, and pricing of the MO-EBRA bonds are**  
12 **reasonably expected to:**  
13           **(a) Lower net present value costs to customers or mitigate rate impacts to**  
14 **customers relative to traditional methods of financing; and**  
15           **(b) Achieve the maximum net present value customer savings over the specified**  
16 **amortization of MO-EBRA bonds, as determined by the commission in a financing order,**  
17 **consistent with market conditions at the time of sale and the terms of the financing order.**  
18           **2. The financing order shall:**  
19           **(1) Determine the maximum amount of MO-EBRA costs that may be financed from**  
20 **proceeds of MO-EBRA bonds authorized to be issued by the financing order;**  
21           **(2) To the extent an application requests financing as a result of the retirement of**  
22 **an electric generating facility located in the state, provide that an amount of MO-EBRA**  
23 **bond proceeds up to fifteen percent of the net present value of electrical corporation**  
24 **customer savings estimated be provided by the electrical corporation to which the**  
25 **financing order applies for use in providing transition assistance and any reasonable and**  
26 **necessary administrative and operating costs;**  
27           **(3) Describe the proposed customer billing mechanism for MO-EBRA charges and**  
28 **include a finding that the mechanism is just and reasonable;**  
29           **(4) Describe the financing costs that may be recovered through MO-EBRA charges**  
30 **and the period over which the costs may be recovered, which shall end no earlier than the**  
31 **date of final legal maturity of the MO-EBRA bonds;**  
32           **(5) Describe the MO-EBRA property that is created and that may be used to pay,**  
33 **and secure the payment of, the MO-EBRA bonds and financing costs authorized in the**  
34 **financing order;**  
35           **(6) Authorize the electrical corporation to finance MO-EBRA costs through the**  
36 **issuance of one or more series of MO-EBRA bonds; provided that an electrical corporation**  
37 **shall not be required to secure a separate financing order for each issuance of MO-EBRA**  
38 **bonds or for each scheduled phase of the previously approved retirement of electric**  
39 **generating facilities approved in the financing order;**  
40           **(7) Include a mechanism for making expeditious periodic adjustments in the MO-**  
41 **EBRA charges that customers are required to pay under to the financing order and for**  
42 **making any adjustments that are necessary to correct for any over- or under- collection of**

43 the MO-EBRA charges in past periods, or otherwise to guarantee the timely payment of  
44 MO-EBRA bonds and financing costs and other required amounts and charges payable  
45 in connection with MO-EBRA bonds;

46 (8) Include any additional findings or conclusions deemed appropriate by the  
47 commission, including those deemed appropriate to achieve the lowest cost objective;

48 (9) Specify the degree of flexibility afforded to the electrical corporation in  
49 establishing the terms and conditions of the MO-EBRA bonds including, but not limited  
50 to, repayment schedules, expected interest rates, and other financing costs; provided that  
51 the scheduled final maturity of the MO-EBRA bonds shall be the earlier of:

52 (a) Thirty years from the issue date of the MO-EBRA bonds; or

53 (b) As late as possible, consistent with obtaining triple A ratings on the MO-EBRA  
54 bonds while concurrently ensuring that the lowest cost objective is achieved for the MO-  
55 EBRA bonds;

56 (10) Specify the timing of actions required by the order so that:

57 (a) The MO-EBRA bonds are issued as soon as feasible following the issuance of  
58 the financing order, independent of the schedule of closing and de-commissioning of any  
59 electric generating facility;

60 (b) Any energy assistance funds are made available as soon as feasible; and

61 (c) The electrical corporation files to adjust its rates as required in subsection 4 of  
62 this section simultaneously with the inception of the MO-EBRA charges and independently  
63 of the schedule of closing and decommissioning of any electric generating facility; and

64 (11) Specify a future ratemaking process to reconcile any difference between the  
65 projected pretax costs included in the amount financed by MO-EBRA bonds and the final  
66 actual MO-EBRA costs approved by the financing order. The reconciliation may affect  
67 the electrical corporation's base rates or any rider adopted under subsection 4 of this  
68 section but shall not affect the amount of the MO-EBRA bonds or the associated MO-  
69 EBRA charges to be paid by customers.

70 3. A financing order shall permit, and may require, the creation of an electrical  
71 corporation's MO-EBRA property under subdivision (5) of subsection 2 of this section to  
72 be conditioned upon, and simultaneous with, the sale or other transfer of the MO-EBRA  
73 property to an assignee and the pledge of the MO-EBRA property to secure MO-EBRA  
74 bonds.

75 4. A financing order shall require the electrical corporation, simultaneously with  
76 the imposition of MO-EBRA charges, to reduce its rates through a reduction in base rates  
77 or by a negative rider on customer bills in an amount equal to the revenue requirement  
78 associated with the electrical corporation's assets being financed by MO-EBRA bonds.

**386.925. 1. A financing order shall remain in effect until the MO-EBRA bonds issued, as authorized by the financing order, have been paid in full and all financing costs relating to the MO-EBRA bonds have been paid in full. A financing order shall also remain in effect and unabated notwithstanding the bankruptcy, reorganization, or insolvency of the electrical corporation to which the financing order applies, or any affiliate of the electrical corporation or successor or assignee. A financing order shall be irrevocable, and the commission shall not reduce, impair, postpone, or terminate MO-EBRA charges approved in a financing order or impair MO-EBRA property or the collection or recovery of MO-EBRA revenue.**

**2. Notwithstanding subsection 1 of this section, upon its own motion or at the request of an electrical corporation or any other person, the commission may commence a proceeding and issue a subsequent financing order that provides for refinancing, retiring, or refunding MO-EBRA bonds issued under the original financing order if:**

**(1) The commission determines that the subsequent financing order meets the same criteria as specified in the original financing order under subsection 2 of section 386.920; and**

**(2) The modification provided for in the subsequent financing order does not impair in any way the covenants and terms of the MO-EBRA bonds to be refinanced, retired, or refunded.**

**386.930. 1. Except as otherwise provided in subsection 2 of this section, if the commission issues a financing order to an electrical corporation, the commission shall not, in exercising its powers and carrying out its duties:**

**(1) Consider the MO-EBRA bonds issued under the financing order to be debt of the electrical corporation, other than for income tax purposes, unless it is necessary to consider the MO-EBRA bonds to be such debt to achieve consistency with prevailing utility debt rating methodologies;**

**(2) Consider the MO-EBRA charges paid under the financing order to be revenue of the electrical corporation;**

**(3) Consider the MO-EBRA costs or financing costs specified in the financing order to be the regulated costs or assets of the electrical corporation; or**

**(4) Determine any prudent action taken by an electrical corporation that is consistent with the financing order to be unjust or unreasonable.**

**2. Nothing in subsection 1 of this section shall:**

**(1) Affect the authority of the commission to apply or modify any billing mechanism designed to recover MO-EBRA charges;**

17           **(2) Prevent or preclude the commission from investigating the compliance of an**  
18 **electrical corporation with the terms and conditions of a financing order and requiring**  
19 **compliance with the financing order; or**

20           **(3) Prevent or preclude the commission from imposing regulatory sanctions against**  
21 **an electrical corporation for failure to comply with the terms and conditions of a financing**  
22 **order or the requirements of sections 386.900 to 386.980.**

23           **3. The commission shall not refuse to allow the recovery of any costs associated**  
24 **with the retirement of electric generating facilities by an electrical corporation solely**  
25 **because the electrical corporation has elected to finance those activities through a financing**  
26 **mechanism other than MO-EBRA bonds.**

**386.935. 1. In addition to any other power and duties of the commission:**

2           **(1) The commission shall have the duty to perform, and authority required to**  
3 **perform, comprehensive due diligence in its evaluation of an application for a financing**  
4 **order and has the duty and authority to oversee the process used to structure, market, and**  
5 **price MO-EBRA bonds;**

6           **(2) The commission may attach such conditions to the approval of a financing order**  
7 **as the commission deems appropriate to maximize the financial benefits or minimize the**  
8 **financial risks of the transaction to customers and to directly impacted Missouri workers**  
9 **and communities;**

10          **(3) The commission may specify details of the process used to structure, market,**  
11 **and price MO-EBRA bonds, including the selection of the underwriter or underwriters;**

12          **(4) The commission shall review and determine the reasonableness of all proposed**  
13 **up-front and ongoing financing costs; and**

14          **(5) The commission shall ensure that the structuring, marketing, and pricing of**  
15 **MO-EBRA bonds maximizes net present value customer savings, consistent with market**  
16 **conditions and the terms of the financing order.**

17          **2. Within one hundred twenty days after the issuance of MO-EBRA bonds, the**  
18 **applicant electrical corporation shall file with the commission information regarding the**  
19 **actual up-front and ongoing financing costs of the MO-EBRA bonds. The commission**  
20 **shall review the prudence of the electrical corporation's action to determine whether the**  
21 **costs resulted in the lowest overall costs that were reasonably consistent with both market**  
22 **conditions at the time of the sale of the MO-EBRA bonds and the terms of the financing**  
23 **order. If the commission determines that the electrical corporation's actions were not**  
24 **prudent, were not designed to result in the lowest overall costs that were reasonably**  
25 **consistent with both market conditions at the time of the sale of the MO-EBRA bonds and**  
26 **the terms of the financing order, or were inconsistent with the financing order, the**

27 commission may apply any remedies that are available to it; except that the commission  
28 shall not apply any remedy that has the effect, directly or indirectly, of impairing the  
29 security for the MO-EBRA bonds.

30 **3. In performing its responsibilities under this section, the commission shall engage**  
31 **outside financial advisors and other consultants and counsel with substantial experience**  
32 **representing regulatory bodies in securitized investor-owned electrical corporation**  
33 **ratepayer-backed bond financing similar to MO-EBRA bonds. The expenses associated**  
34 **with such engagement shall be included as financing costs and included in MO-EBRA**  
35 **charges, shall not be an obligation of the state, and shall be assigned solely to the**  
36 **transaction. In addition, expenses incurred by the commission to hire and compensate**  
37 **additional temporary staff needed to perform such responsibilities shall be included as**  
38 **financing costs and included in MO-EBRA charges.**

39 **4. If an electrical corporation's application for a financing order is denied or**  
40 **withdrawn, or for any reason MO-EBRA bonds are not issued, the commission's costs of**  
41 **retaining expert consultants and counsel, as authorized by subsection 3 of this section, shall**  
42 **be paid by the electrical corporation and shall be considered by the commission as a**  
43 **prudent deferred expense for recovery in the electrical corporation's future rates.**

**386.940. A financing order is a final order of the commission. Notwithstanding the**  
2 **provisions of any other section specifying proper venue for petition filings, a party**  
3 **aggrieved by the issuance of a financing order may petition for suspension and review of**  
4 **the financing order only in the court of appeals with jurisdiction coextensive to the**  
5 **commission's location. In the case of any petition for suspension and review, the court**  
6 **shall proceed to hear and determine the action as expeditiously as practicable and shall**  
7 **give the action precedence over other matters not accorded similar precedence by law.**

**386.945. 1. The electric bills of customers of an electrical corporation that has**  
2 **obtained a financing order and caused MO-EBRA bonds to be issued shall:**

3 **(1) Explicitly reflect that a portion of the charges on the bill represents MO-EBRA**  
4 **charges approved in a financing order issued to the electric utility and, if the MO-EBRA**  
5 **property has been transferred to an assignee or successor, shall include a statement that**  
6 **the assignee or successor is the owner of the rights to MO-EBRA charges and that the**  
7 **electrical corporation or other entity, if applicable, is acting as a collection agent or servicer**  
8 **for the assignee or successor;**

9 **(2) Include the MO-EBRA charges on each customer's bill as a separate line item**  
10 **titled "energy bill reduction assistance charge" and may include both the rate and the**  
11 **amount of the charge on each bill; however, the failure of an electrical corporation to**  
12 **comply with this requirement shall not invalidate, impair, or affect any financing order,**

13 MO-EBRA property, MO-EBRA charges, or MO-EBRA bonds, but shall subject the  
14 electrical corporation to penalties under applicable commission rules; and

15 (3) Explain to customers, in an annual filing with the commission, the rate impact  
16 that financing the retirement of electric generating facilities, providing transition assistance  
17 to Missouri communities and electric generating facility workers that are directly impacted  
18 by the retirement of electric generating facilities, and making capital investment for  
19 renewable facilities and services including least-cost electric generating facilities and other  
20 supply-side and demand-side resources, has had on customer rates.

21 2. An electrical corporation that has obtained a financing order and caused MO-  
22 EBRA bonds to be issued shall demonstrate in an annual filing with the commission that  
23 MO-EBRA revenues have been applied solely to the repayment of MO-EBRA bonds and  
24 other financing costs.

386.950. 1. MO-EBRA property that is described in a financing order shall  
2 constitute an existing present property right or interest even though the imposition and  
3 collection of MO-EBRA charges depends on the electrical corporation to which the  
4 financing order is issued performing its servicing functions relating to the collection of  
5 MO-EBRA charges and on future electricity consumption. The property right or interest  
6 exists regardless of whether the revenues or proceeds arising from the MO-EBRA property  
7 have been billed, have accrued, or have been collected and notwithstanding the fact that  
8 the value or amount of the property right or interest is dependent on the future provision  
9 of service to customers by the electrical corporation or a successor or assignee of the  
10 electrical corporation.

11 2. MO-EBRA property described in a financing order shall exist until all MO-  
12 EBRA bonds issued under the financing order are paid in full and all financing costs and  
13 other costs of the MO-EBRA bonds have been recovered in full.

14 3. All or any portion of MO-EBRA property described in a financing order issued  
15 to an electrical corporation may be transferred, sold, conveyed, or assigned to a successor  
16 or assignee that is wholly owned, directly or indirectly, by the electrical corporation and  
17 is created for the limited purpose of acquiring, owning, or administering MO-EBRA  
18 property or issuing MO-EBRA bonds as authorized by the financing order. All or any  
19 portion of MO-EBRA property may be pledged to secure MO-EBRA bonds issued under  
20 a financing order, amounts payable to financing parties and to counterparties under any  
21 ancillary agreements, and other financing costs. Each transfer, sale, conveyance,  
22 assignment, or pledge by an electrical corporation, or an affiliate of an electrical  
23 corporation, is a transaction in the ordinary course of business.

24           **4. If an electrical corporation defaults on any required remittance of charges**  
25 **arising from MO-EBRA property described in a financing order, a court, upon application**  
26 **by an interested party and without limiting any other remedies available to the applying**  
27 **party, shall order the sequestration and payment of the revenues arising from the MO-**  
28 **EBRA property to the financing parties. Any such financing order remains in full force**  
29 **and effect notwithstanding any reorganization, bankruptcy, or other insolvency**  
30 **proceedings with respect to the electrical corporation or its successors or assignees.**

31           **5. The interest of a transferee, purchaser, acquirer, assignee, or pledgee in MO-**  
32 **EBRA property specified in a financing order issued to an electrical corporation, and in**  
33 **the revenue and collections arising from that property, is not subject to setoff,**  
34 **counterclaim, surcharge, or defense by the electrical corporation or any other person or**  
35 **in connection with the reorganization, bankruptcy, or other insolvency of the electrical**  
36 **corporation or any other entity.**

37           **6. A successor to an electrical corporation, whether pursuant to any reorganization,**  
38 **bankruptcy, or other insolvency proceeding or whether pursuant to any merger or**  
39 **acquisition, sale, other business combination, or transfer by operation of law, as a result**  
40 **of electrical corporation restructuring or otherwise, shall perform and satisfy all**  
41 **obligations of, and have the same duties and rights under a financing order as, the**  
42 **electrical corporation to which the financing order applies, and shall perform the duties**  
43 **and exercise the rights in the same manner and to the same extent as the electrical**  
44 **corporation, including collecting and paying to any person entitled to receive the revenues,**  
45 **collections, payments, or proceeds of MO-EBRA property described in the financing order.**

**386.955. 1. Banks, trust companies, savings and loan associations, insurance**  
2 **companies, executors, administrators, guardians, trustees, and other fiduciaries may legally**  
3 **invest any moneys within their control in MO-EBRA bonds. Political subdivisions may**  
4 **invest public funds in MO-EBRA bonds.**

5           **2. MO-EBRA bonds issued under a financing order are not debt of, or a pledge of,**  
6 **the faith and credit or taxing power of the state; any agency of the state; or any county,**  
7 **municipality, or other political subdivision of the state. Holders of MO-EBRA bonds have**  
8 **no right to have taxes levied by the state or by any county, municipality, or other political**  
9 **subdivision of the state for the payment of the principal or interest on MO-EBRA bonds.**  
10 **The issuance of MO-EBRA bonds shall not directly, indirectly, or contingently obligate the**  
11 **state, or a political subdivision of the state, to levy any tax or make any appropriation for**  
12 **payment of principal or interest on the MO-EBRA bonds.**

13           **3. The state, or any political subdivision thereof, shall not:**

14           **(1) Take or permit any action that impairs the value of MO-EBRA property; or**

15           (2) Reduce, alter, or impair MO-EBRA charges that are imposed, collected, and  
16 remitted for the benefit of holders of MO-EBRA bonds, any assignee or successor, and any  
17 financing parties, until any principal, interest, and redemption premium payable on MO-  
18 EBRA bonds, all financing costs, and all amounts to be paid to an assignee, a successor, or  
19 financing party under an ancillary agreement are paid in full.

**386.960.** An assignee or financing party that is not regulated by the commission  
2 shall not become subject to commission regulation solely as a result of engaging in any  
3 transaction authorized by or described in sections 386.900 to 386.985.

**386.965. 1.** If any provision of sections 386.900 to 386.985 conflicts with any other  
2 law regarding the attachment, assignment, perfection, effect of perfection, or priority of  
3 any security interest in or transfer of MO-EBRA property, sections 386.900 to 386.985  
4 shall govern.

**2.** Effective on the date that MO-EBRA bonds are first issued, if any provision of  
6 sections 386.900 to 386.985 is held to be invalid or is invalidated, such invalidation shall not  
7 affect any action allowed under sections 386.900 to 386.985 that was lawfully taken by the  
8 commission, an electrical corporation, an assignee, a collection agent, a financing party, a  
9 bondholder, or a party to an ancillary agreement before the occurrence, and any such  
10 action remains in full force and effect.

**3.** Nothing in sections 386.900 to 386.985 precludes an electrical corporation, for  
12 which the commission has initially issued a financing order, from applying to the  
13 commission for:

14           (1) A subsequent financing order amending an existing financing order; or

15           (2) An order approving the issuance of MO-EBRA bonds to refund all or a portion  
16 of an outstanding series of MO-EBRA bonds.

**386.970.** All of the following apply to any security interest in MO-EBRA property  
2 to secure the repayment of the principal and interest on MO-EBRA bonds, amounts  
3 payable under any ancillary agreement, and other financing costs:

4           (1) The description or indication of MO-EBRA property in a transfer or security  
5 agreement and a financing statement is sufficient only if the description or indication refers  
6 to sections 386.900 to 386.985 and the financing order creating the MO-EBRA property;

7           (2) A security interest in MO-EBRA property is created, valid, and binding as soon  
8 as all of the following events have occurred:

9           (a) The financing order that describes the MO-EBRA property is issued;

10           (b) A security agreement is executed and delivered; and

11           (c) Value is received for the MO-EBRA bonds;

12           **(3) Once a security interest in MO-EBRA property is created under paragraph (a)**  
13 **of subdivision (2) of this section, the security interest attaches without any physical delivery**  
14 **of collateral or any other act. The lien of the security interest is valid, binding, and**  
15 **perfected against all parties having claims of any kind in tort, contract, or otherwise**  
16 **against the person granting the security interest, regardless of whether such parties have**  
17 **notice of the lien, upon the filing of a financing statement with the secretary of state. The**  
18 **secretary of state shall maintain a financing statement filed under this subdivision;**

19           **(4) A security interest in MO-EBRA property is a continuously perfected security**  
20 **interest and has priority over any other lien, created by operation of law or otherwise,**  
21 **which may subsequently attach to the MO-EBRA property unless the holder of the security**  
22 **interest has agreed in writing otherwise;**

23           **(5) The priority of a security interest in MO-EBRA property shall not be affected**  
24 **by the commingling of MO-EBRA property or MO-EBRA revenue with other moneys. An**  
25 **assignee, bondholder, or financing party shall have a perfected security interest in the**  
26 **amount of all MO-EBRA property or MO-EBRA revenue that is pledged for the payment**  
27 **of MO-EBRA bonds, even if the MO-EBRA property or MO-EBRA revenue is deposited**  
28 **in a cash or deposit account of the electrical corporation in which the MO-EBRA revenue**  
29 **is commingled with other moneys, and any other security interest that applies to the other**  
30 **moneys does not apply to the MO-EBRA revenue; and**

31           **(6) Neither a subsequent order of the commission amending a financing order, nor**  
32 **application of an adjustment mechanism, shall affect the validity, perfection, or priority**  
33 **of a security interest in or transfer of MO-EBRA property.**

**386.975. 1. A sale, assignment, or transfer of MO-EBRA property is an absolute**  
2 **transfer and true sale of, and not a pledge of or secured transaction relating to, the seller's**  
3 **right, title and interest in, to, and under the MO-EBRA property if the documents**  
4 **governing the transaction expressly state that the transaction is a sale or other absolute**  
5 **transfer. A transfer of an interest in MO-EBRA property may be created only when all**  
6 **of the following have occurred:**

7           **(1) The financing order creating and describing the MO-EBRA property has**  
8 **become effective;**

9           **(2) The documents evidencing the transfer of the MO-EBRA property have been**  
10 **executed and delivered to the assignee; and**

11           **(3) Value has been received.**

12           **2. Upon the filing of a financing statement with the secretary of state, a transfer of**  
13 **an interest in MO-EBRA property is perfected against all third persons, including any**  
14 **judicial lien or other lien creditors or any claims of the seller or creditors of the seller,**

15 other than creditors holding a prior security interest, ownership interest, or assignment in  
16 the MO-EBRA property previously perfected.

17 3. The characterization of a sale, assignment, or transfer as an absolute transfer  
18 and true sale and the corresponding characterization of the property interest of the  
19 assignee shall not be affected or impaired by the existence or occurrence of any of the  
20 following:

21 (1) Commingling of MO-EBRA revenue with other moneys;

22 (2) The retention by the seller of a partial or residual interest, including an equity  
23 interest, in the MO-EBRA property, whether direct or indirect, or whether subordinate  
24 or otherwise; or the right to recover costs associated with taxes, franchise fees, or license  
25 fees imposed on the collection of MO-EBRA revenue;

26 (3) Any indemnification rights, obligations, or repurchase rights made or provided  
27 by the seller;

28 (4) An obligation of the seller to collect MO-EBRA revenues on behalf of an  
29 assignee;

30 (5) The treatment of the sale, assignment, or transfer for tax, financial reporting,  
31 or other purposes;

32 (6) Any subsequent financing order amending a financing order; or

33 (7) Any application of an adjustment mechanism as authorized by subdivision (7)  
34 of subsection 2 of section 386.920.

386.980. 1. Subject to commission approval as required by subsection 2 of this  
2 section, as provided in a financing order, an electrical corporation may expend or invest  
3 MO-EBRA bond proceeds in a manner that demonstrably benefits ratepayer interests, as  
4 follows:

5 (1) To purchase power to replace electricity generated by the electric generating  
6 facilities that were retired if the commission determines that the purchased power is a  
7 least-cost generation resource and is consistent with the electrical corporation's approved  
8 integrated resource plan;

9 (2) To build and own generation facilities that are least-cost generation resources,  
10 the addition of which is not inconsistent with the electrical corporation's approved  
11 integrated resource plan;

12 (3) To build, own, or purchase electricity storage capacity to the extent that such  
13 investment is either required by law or rule or is needed to increase the amount of least-  
14 cost generation resources that the electrical corporation is able to add to its generation  
15 portfolio;

16           **(4) To help customers invest in energy efficiency, including financing assistance;**  
17 **and**

18           **(5) To invest in network modernization to the extent that the modernization is**  
19 **necessary to increase the amount of least-cost generation resources able to be added to the**  
20 **electrical corporation's system; except that proceeds shall not be used for new transmission**  
21 **facilities.**

22           **2. In considering any application for approval of the use of MO-EBRA bond**  
23 **proceeds, the commission shall use its regular process for consideration of applications.**

**386.985. The commission shall have the authority to promulgate rules to implement**  
2 **the provisions of sections 386.900 to 386.980. Any rule or portion of a rule, as that term**  
3 **is defined in section 536.010 that is created under the authority delegated in this section**  
4 **shall become effective only if it complies with and is subject to all of the provisions of**  
5 **chapter 536, and, if applicable, section 536.028. This section and chapter 536 are**  
6 **nonseverable and if any of the powers vested with the general assembly pursuant to**  
7 **chapter 536, to review, to delay the effective date, or to disapprove and annul a rule are**  
8 **subsequently held unconstitutional, then the grant of rulemaking authority and any rule**  
9 **proposed or adopted after August 28, 2019, shall be invalid and void.**

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