

SENATE BILL NO. 202

101ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR CIERPIOT.

0822S.01H

ADRIANE D. CROUSE, Secretary

AN ACT

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

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

Section A. Chapter 386, RSMo, is amended by adding thereto
2 seventeen new sections, to be known as sections 386.900,
3 386.910, 386.915, 386.920, 386.925, 386.930, 386.935, 386.940,
4 386.945, 386.950, 386.955, 386.960, 386.965, 386.970, 386.975,
5 386.980, and 386.985, to read as follows:

**386.900. Sections 386.900 to 386.985 shall be known
2 and cited as the "Missouri Electricity Bill Reduction
3 Assistance Act" or "MO-EBRA".**

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

3 (1) "Ancillary agreement", any 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 MO-EBRA bonds
8 that is designed to promote the credit quality and
9 marketability of the MO-EBRA bonds or to mitigate the risk
10 of an increase in interest rates;

11 (2) "Assignee", any person to which an interest in MO-
12 EBRA property is sold, assigned, transferred, or conveyed,

13 other than as security, and any successor to or subsequent
14 assignee of such person;

15 (3) "Bondholder", any holder or owner of MO-EBRA bonds;

16 (4) "Commission", the Missouri public service
17 commission;

18 (5) "Customer", a person who takes electric
19 distribution or electric transmission service from an
20 electrical corporation for consumption of electricity in the
21 state;

22 (6) "Financing costs", if approved by the commission
23 in a financing order, costs to issue, service, repay, or
24 refinance MO-EBRA bonds, whether incurred or paid upon
25 issuance of the MO-EBRA bonds or over the life of the MO-
26 EBRA bonds, and includes:

27 (a) Principal, interest, and redemption premiums that
28 are payable on MO-EBRA bonds;

29 (b) Any payment required under an ancillary agreement
30 and any amount required to fund or replenish a reserve
31 account or other accounts established under the terms of any
32 indenture, ancillary agreement, or other financing document
33 pertaining to MO-EBRA bonds;

34 (c) Any other demonstrable costs related to issuing,
35 supporting, repaying, refunding, and servicing MO-EBRA bonds
36 including, but not limited to, servicing fees, accounting
37 and auditing fees, trustee fees, legal fees, consulting
38 fees, financial advisor fees, administrative fees, placement
39 and underwriting fees, capitalized interest, rating agency
40 fees, stock exchange listing and compliance fees, security
41 registration fees, filing fees, information technology
42 programming costs, and any other demonstrable costs
43 necessary to otherwise ensure and guarantee the timely

44 payment of MO-EBRA bonds or other amounts or charges payable
45 in connection with MO-EBRA bonds;

46 (d) Any taxes and license fees imposed on the revenue
47 generated from the collection of MO-EBRA charges;

48 (e) Any state and local taxes including franchise,
49 sales and use, and other taxes or similar charges including,
50 but not limited to, regulatory assessment fees, whether
51 paid, payable, or accrued; and

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

58 (7) "Financing order", an order of the commission that
59 approves, in whole or in part, an application filed under
60 section 386.915 and that authorizes the issuance of MO-EBRA
61 bonds in one or more series; the imposition, charging, and
62 collection of MO-EBRA charges; and the creation of MO-EBRA
63 property. In a financing order, the commission may include
64 any conditions that are necessary to promote the public
65 interest and may grant relief that is different from that
66 which was requested in the application so long as the relief
67 is within the scope of the matters addressed in the
68 commission's notice of the application;

69 (8) "Financing party", holders of MO-EBRA bonds and
70 trustees, collateral agents, any party under an ancillary
71 agreement, or any other person acting for the benefit of
72 holders of MO-EBRA bonds;

73 (9) "Least-cost generation resource", an incremental
74 supply-side or demand-side resource that, when included in
75 an electrical corporation's generation portfolio, produces

76 the lowest cost among alternative resources, considering
77 both short-term and long-term costs and assessing the
78 likelihood of changes in future fuel prices and future
79 environmental requirements, among other considerations;

80 (10) "Lowest cost objective", the structuring,
81 marketing, and pricing of MO-EBRA bonds that results in the
82 lowest MO-EBRA charges consistent with prevailing market
83 conditions on or about the time of pricing MO-EBRA bonds,
84 and the structure and terms of MO-EBRA bonds approved under
85 the financial order;

86 (11) "MO-EBRA", Missouri electricity bill reduction
87 assistance;

88 (12) "MO-EBRA bonds", low-cost corporate securities,
89 such as senior secured bonds, debentures, notes,
90 certificates of participation, certificates of beneficial
91 interest, certificates of ownership, or other evidences of
92 indebtedness or ownership that have a scheduled maturity of
93 no longer than thirty years and a final legal maturity date
94 that is no later than thirty-two years from the issue date,
95 that are rated AA or AA2 or better by a major independent
96 credit rating agency at the time of issuance, and that are
97 issued by an electrical corporation or an assignee under a
98 financing order, the proceeds of which are used to recover,
99 finance, or refinance commission-approved MO-EBRA costs and
100 financing costs, including assistance to affected workers
101 and communities, and that are secured by or payable from MO-
102 EBRA property. If certificates of participation or
103 ownership are issued, references in sections 386.900 to
104 386.980 to "principal", "interest", or "premium" refer to
105 comparable amounts under such certificates;

106 (13) "MO-EBRA charges", charges in amounts determined
107 appropriate by the commission and authorized by the

108 commission in a financing order to provide a source of
109 revenue solely to repay, finance, or refinance MO-EBRA costs
110 and financing costs that are imposed on, and are a part of,
111 all customer bills and are collected in full by the
112 electrical corporation to which the financing order applies,
113 by the electrical corporation's successors or assignees, or
114 by a collection agent through a non-bypassable charge that
115 is separate and apart from the electrical corporation's base
116 rates;

117 (14) "MO-EBRA costs":

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

122 (b) The pretax costs that the electrical corporation
123 has incurred or will incur in constructing or acquiring
124 facilities and services, including least-cost generation
125 resources and other supply-side and demand-side resources;

126 (c) Any reasonable and necessary administrative and
127 operating costs as required by a financing order; and

128 (d) Do not include any monetary penalty, fine, or
129 forfeiture assessed against an electrical corporation by a
130 government agency or court under a federal or state
131 environmental statute, rule, or regulation;

132 (15) "MO-EBRA property":

133 (a) All rights and interests of an electrical
134 corporation, or successor or assignee of an electrical
135 corporation, under a financing order for the right to
136 impose, bill, collect, and receive MO-EBRA charges as it is
137 authorized to do so solely under the financing order, and to
138 obtain periodic adjustments to such MO-EBRA charges as
139 provided in the financing order; and

140 (b) All revenue, collections, claims, rights to
141 payment, payments, moneys, or proceeds arising from the
142 rights and interests, regardless of whether such revenue,
143 collections, claims, rights to payment, payments, moneys, or
144 proceeds are imposed, billed, received, collected, or
145 maintained together with or commingled with other revenue,
146 collections, rights to payment, payments, moneys, or
147 proceeds;

148 (16) "MO-EBRA revenue", all revenue, receipts,
149 collections, payments, moneys, claims, or other proceeds
150 arising from MO-EBRA property;

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

156 (a) All existing and future customers receiving
157 transmission or distribution service from the electrical
158 corporation or its successors or assignees under commission-
159 approved rate schedules or under special contracts, even if
160 a customer is in the future allowed and elects to purchase
161 electricity from an electric supplier other than the
162 electrical corporation; and

163 (b) Any person located within the electrical
164 corporation's certificated service territory that may
165 subsequently receive electric transmission or distribution
166 service from another electric utility operating in the same
167 service territory;

168 (18) "Pretax costs", include, but are not limited to,
169 the unrecovered capitalized cost of a retired electric
170 generating facility, costs of de-commissioning and restoring
171 the site of the electric generating facility, and other

172 applicable capital and operating costs, accrued carrying
173 charges, deferred expenses, reductions for applicable
174 insurance and salvage proceeds, and the costs of retiring
175 any existing indebtedness, fees, costs, and expenses to
176 modify existing debt agreements or for waivers or consents
177 related to existing debt agreements. Pretax costs include
178 only those costs and expenses approved by the commission;

179 (19) "Successor", with respect to any legal entity,
180 another legal entity that succeeds by operation of law to
181 the rights and obligations of the first legal entity under
182 any bankruptcy, reorganization, restructuring, other
183 insolvency proceeding, merger, acquisition, consolidation,
184 or sale or transfer of assets, whether any of these occur
185 due to a restructuring of the electric power industry or
186 otherwise.

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

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

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

19 (2) A proposed methodology for allocating MO-EBRA
20 charges among customer classes;

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

25 (4) An estimate of the net present value of electrical
26 corporation customer savings expected to result if the
27 financing order is issued as determined by a net present
28 value comparison between the costs to customers that are
29 expected to result from the financing with MO-EBRA bonds and
30 the costs that would result from the application of
31 traditional electrical corporation financing mechanisms for
32 the same purposes; and

33 (5) One or more alternative financing scenarios in
34 addition to the preferred scenario contained in the
35 application.

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

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

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

10 (a) Are just and reasonable;

11 (b) Are consistent with the public interest; and

12 (c) Constitute a prudent and reasonable mechanism for
13 the financing MO-EBRA costs described in the financing order
14 application; and

15 (3) The proposed structuring, marketing, and pricing
16 of the MO-EBRA bonds are reasonably expected to:

17 (a) Lower net present value costs to customers or
18 mitigate rate impacts to customers relative to traditional
19 methods of financing; and

20 (b) Achieve the maximum net present value customer
21 savings over the specified amortization of MO-EBRA bonds, as
22 determined by the commission in a financing order,
23 consistent with market conditions at the time of sale and
24 the terms of the financing order.

25 2. The financing order shall:

26 (1) Determine the maximum amount of MO-EBRA costs that
27 may be financed from proceeds of MO-EBRA bonds authorized to
28 be issued by the financing order;

29 (2) To the extent an application requests financing as
30 a result of the retirement of an electric generating
31 facility located in the state provide that an amount of MO-
32 EBRA bond proceeds, up to fifteen percent of the net present
33 value of electrical corporation customer savings estimated
34 be provided by the electrical corporation to which the
35 financing order applies, shall be used for providing any
36 reasonable and necessary administrative and operating costs;

37 (3) Describe the proposed customer billing mechanism
38 for MO-EBRA charges and include a finding that the mechanism
39 is just and reasonable;

40 (4) Describe the financing costs that may be recovered
41 through MO-EBRA charges and the period over which the costs
42 may be recovered, which shall end no earlier than the date
43 of final legal maturity of the MO-EBRA bonds;

44 (5) Describe the MO-EBRA property that is created and
45 that may be used to pay, and secure the payment of, the MO-
46 EBRA bonds and financing costs authorized in the financing
47 order;

48 (6) Authorize the electrical corporation to finance MO-
49 EBRA costs through the issuance of one or more series of MO-
50 EBRA bonds, provided that an electrical corporation shall
51 not be required to secure a separate financing order for
52 each issuance of MO-EBRA bonds or for each scheduled phase
53 of the previously approved retirement of electric generating
54 facilities approved in the financing order;

55 (7) Include a mechanism for making expeditious
56 periodic adjustments in the MO-EBRA charges that customers
57 are required to pay under the financing order and for making
58 any adjustments that are necessary to correct for any over-
59 or under-collection of the MO-EBRA charges in past periods,
60 or otherwise to guarantee the timely payment of MO-EBRA
61 bonds and financing costs and other required amounts and
62 charges payable in connection with MO-EBRA bonds;

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

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

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

74 (b) As late as possible, consistent with obtaining
75 triple A ratings on the MO-EBRA bonds while concurrently

76 ensuring that the lowest cost objective is achieved for the
77 MO-EBRA bonds;

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

80 (a) The MO-EBRA bonds are issued as soon as feasible
81 following the issuance of the financing order, independent
82 of the schedule of closing and decommissioning of any
83 electric generating facility;

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

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

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

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

105 4. A financing order shall require the electrical
106 corporation, simultaneously with the imposition of MO-EBRA
107 charges, to reduce its rates through a reduction in base

108 rates or by a negative rider on customer bills in an amount
109 equal to the revenue requirement associated with the
110 electrical corporation's assets being financed by MO-EBRA
111 bonds.

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

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

20 (1) The commission determines that the subsequent
21 financing order meets the same criteria as specified in the
22 original financing order under subsection 2 of section
23 386.920; and

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

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

(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;

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

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

33 3. The commission shall not refuse to allow the
34 recovery of any costs associated with the retirement of
35 electric generating facilities by an electrical corporation
36 solely because the electrical corporation has elected to
37 finance those activities through a financing mechanism other
38 than MO-EBRA bonds.

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

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

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

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

16 (4) The commission shall review and determine the
17 reasonableness of all proposed up-front and ongoing
18 financing costs; and

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

23 2. Within one hundred twenty days after the issuance
24 of MO-EBRA bonds, the applicant electrical corporation shall
25 file with the commission information regarding the actual up-
26 front and ongoing financing costs of the MO-EBRA bonds. The

27 commission shall review the prudence of the electrical
28 corporation's action to determine whether the financing
29 costs resulted in the lowest overall costs that were
30 reasonably consistent with both market conditions at the
31 time of the sale of the MO-EBRA bonds and the terms of the
32 financing order. If the commission determines that the
33 electrical corporation's actions were not prudent, were not
34 designed to result in the lowest overall costs that were
35 reasonably consistent with both market conditions at the
36 time of the sale of the MO-EBRA bonds and the terms of the
37 financing order, or were inconsistent with the financing
38 order, the commission may apply any remedies that are
39 available to it; except that the commission shall not apply
40 any remedy that has the effect, directly or indirectly, of
41 impairing the security for the MO-EBRA bonds.

42 3. In performing its responsibilities under this
43 section, the commission shall engage outside financial
44 advisors, counsel, and other consultants with substantial
45 experience representing regulatory bodies in securitized
46 investor-owned electrical corporation ratepayer-backed bond
47 financing similar to MO-EBRA bonds. The expenses associated
48 with such engagement shall be included as financing costs
49 and included in MO-EBRA charges, shall not be an obligation
50 of the state, and shall be assigned solely to the
51 transaction. In addition, expenses incurred by the
52 commission to hire and compensate additional temporary staff
53 needed to perform such responsibilities shall be included as
54 financing costs and included in MO-EBRA charges.

55 4. If an electrical corporation's application for a
56 financing order is denied or withdrawn, or for any reason MO-
57 EBRA bonds are not issued, the commission's costs of
58 retaining expert consultants and counsel, as authorized by

59 subsection 3 of this section, shall be paid by the
60 electrical corporation and shall be considered by the
61 commission as a prudent deferred expense for recovery in the
62 electrical corporation's future rates.

386.940. A financing order is a final order of the
2 commission. Notwithstanding the provisions of any other
3 section of law specifying proper venue for petition filings,
4 a party aggrieved by the issuance of a financing order may
5 petition for suspension and review of the financing order
6 only in the court of appeals with jurisdiction coextensive
7 to the commission's location.

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

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

13 (2) Include the MO-EBRA charges on each customer's
14 bill as a separate line item titled "energy bill reduction
15 assistance charge" and may include both the rate and the
16 amount of the charge on each bill; however, the failure of
17 an electrical corporation to comply with this requirement
18 shall not invalidate, impair, or affect any financing order,
19 MO-EBRA property, MO-EBRA charges, or MO-EBRA bonds, but
20 shall subject the electrical corporation to penalties under
21 applicable commission rules; and

22 (3) Explain to customers, in an annual filing with the
23 commission, the rate impact that financing the retirement of
24 electric generating facilities and making capital investment
25 for facilities and services, including least-cost electric
26 generating facilities and other supply-side and demand-side
27 resources, has had on customer rates.

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

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

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

20 3. All or any portion of MO-EBRA property described in
21 a financing order issued to an electrical corporation may be

22 transferred, sold, conveyed, or assigned to a successor or
23 assignee that is wholly owned, directly or indirectly, by
24 the electrical corporation and is created for the limited
25 purpose of acquiring, owning, or administering MO-EBRA
26 property or issuing MO-EBRA bonds as authorized by the
27 financing order. All or any portion of MO-EBRA property may
28 be pledged to secure MO-EBRA bonds issued under a financing
29 order, amounts payable to financing parties and to
30 counterparties under any ancillary agreements, and other
31 financing costs. Each transfer, sale, conveyance,
32 assignment, or pledge by an electrical corporation, or an
33 affiliate of an electrical corporation, is a transaction in
34 the ordinary course of business.

35 4. If an electrical corporation defaults on any
36 required remittance of charges arising from MO-EBRA property
37 described in a financing order, a court, upon application by
38 an interested party and without limiting any other remedies
39 available to the applying party, shall order the
40 sequestration and payment of the revenues arising from the
41 MO-EBRA property to the financing parties. Any financing
42 order shall remain in full force and effect notwithstanding
43 any reorganization, bankruptcy, or other insolvency
44 proceedings with respect to the electrical corporation or
45 its successors or assignees.

46 5. The interest of a transferee, purchaser, acquirer,
47 assignee, or pledgee in MO-EBRA property specified in a
48 financing order issued to an electrical corporation, and in
49 the revenue and collections arising from that property, is
50 not subject to setoff, counterclaim, surcharge, or defense
51 by the electrical corporation or any other person or in
52 connection with the reorganization, bankruptcy, or other
53 insolvency of the electrical corporation or any other entity.

54 6. A successor to an electrical corporation, whether
55 pursuant to any reorganization, bankruptcy, or other
56 insolvency proceeding or whether pursuant to any merger or
57 acquisition, sale, other business combination, or transfer
58 by operation of law, as a result of electrical corporation
59 restructuring or otherwise, shall perform and satisfy all
60 obligations of, and have the same duties and rights under a
61 financing order as, the electrical corporation to which the
62 financing order applies, and shall perform the duties and
63 exercise the rights in the same manner and to the same
64 extent as the electrical corporation, including collecting
65 and paying to any person entitled to receive the revenues,
66 collections, payments, or proceeds of MO-EBRA property
67 described in the financing order.

 386.955. 1. Banks, trust companies, savings and loan
2 associations, insurance companies, executors,
3 administrators, guardians, trustees, and other fiduciaries
4 may legally invest any moneys within their control in MO-
5 EBRA bonds. Political subdivisions may invest public funds
6 in MO-EBRA bonds. Within the maturity parameters
7 established for the investment of state funds by the state
8 treasurer's office, MO-EBRA bonds are eligible for
9 investment of state moneys.

10 2. MO-EBRA bonds issued under a financing order are
11 not debt of, or a pledge of, the faith and credit or taxing
12 power of the state; any agency of the state; or any county,
13 municipality, or other political subdivision of the state.
14 Holders of MO-EBRA bonds have no right to have taxes levied
15 by the state or by any county, municipality, or other
16 political subdivision of the state for the payment of the
17 principal or interest on MO-EBRA bonds. The issuance of MO-
18 EBRA bonds shall not directly, indirectly, or contingently

19 obligate the state, or a political subdivision of the state,
20 to levy any tax or make any appropriation for payment of
21 principal or interest on the MO-EBRA bonds.

22 3. The state, or any political subdivision thereof,
23 shall not:

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

26 (2) Reduce, alter, or impair MO-EBRA charges that are
27 imposed, collected, and remitted for the benefit of holders
28 of MO-EBRA bonds, any assignee or successor, and any
29 financing parties, until any principal, interest, and
30 redemption premium payable on MO-EBRA bonds, all financing
31 costs, and all amounts to be paid to an assignee, a
32 successor, or financing party under an ancillary agreement
33 are paid in full.

34 4. There shall be no local or state taxes imposed on
35 interest income earned by holders of MO-EBRA bonds.

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

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

6 2. Effective on the date that MO-EBRA bonds are first
7 issued, if any provision of sections 386.900 to 386.985 is
8 held to be invalid or is invalidated, such invalidation
9 shall not affect any action allowed under sections 386.900
10 to 386.985 that was lawfully taken by the commission, an

11 electrical corporation, an assignee, a collection agent, a
12 financing party, a bondholder, or a party to an ancillary
13 agreement before the occurrence, and any such action remains
14 in full force and effect.

15 3. Nothing in sections 386.900 to 386.985 precludes an
16 electrical corporation for which the commission has
17 initially issued a financing order from applying to the
18 commission for:

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

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

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

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

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

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

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

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

17 (3) Once a security interest in MO-EBRA property is
18 created under subdivision (2) of this subsection, the
19 security interest attaches without any physical delivery of

20 collateral or any other act. The lien of the security
21 interest is valid, binding, and perfected against all
22 parties having claims of any kind in tort, contract, or
23 otherwise against the person granting the security interest,
24 regardless of whether such parties have notice of the lien,
25 but only upon the filing of a financing statement with the
26 commission. The commission shall maintain a financing
27 statement filed under this subdivision;

28 (4) A security interest in MO-EBRA property is a
29 continuously perfected security interest and shall have
30 priority over any other lien, created by operation of law or
31 otherwise, which may subsequently attach to the MO-EBRA
32 property unless the holder of the security interest has
33 agreed in writing otherwise;

34 (5) An electrical corporation shall separate MO-EBRA
35 property or revenue from other incoming moneys as soon as
36 practicable. The electrical corporation shall avoid
37 commingling of MO-EBRA and non-MO-EBRA moneys if possible.
38 The priority of a security interest in MO-EBRA property
39 shall not be affected by the commingling of MO-EBRA property
40 or MO-EBRA revenue with other moneys. An assignee,
41 bondholder, or financing party shall have a perfected
42 security interest in the amount of all MO-EBRA property or
43 MO-EBRA revenue that is pledged for the payment of MO-EBRA
44 bonds, even if the MO-EBRA property or MO-EBRA revenue is
45 deposited in a cash or deposit account of the electrical
46 corporation in which the MO-EBRA revenue is commingled with
47 other moneys, and any other security interest that applies
48 to the other moneys does not apply to the MO-EBRA revenue;
49 and

50 (6) Neither a subsequent order of the commission
51 amending a financing order nor application of an adjustment

52 mechanism shall affect the validity, perfection, or priority
53 of a security interest in or transfer of MO-EBRA property.

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

10 (1) The financing order creating and describing the MO-
11 EBRA property has become effective;

12 (2) The documents evidencing the transfer of the MO-
13 EBRA property have been executed and delivered to the
14 assignee; and

15 (3) Value has been received.

16 2. Upon the filing of a financing statement with the
17 commission, a transfer of an interest in MO-EBRA property is
18 perfected against all third persons, including any judicial
19 lien or other lien creditors, or any claims of the seller or
20 creditors of the seller, other than creditors holding a
21 prior security interest, ownership interest, or assignment
22 in the MO-EBRA property previously perfected.

23 3. The characterization of a sale, assignment, or
24 transfer as an absolute transfer and true sale and the
25 corresponding characterization of the property interest of
26 the assignee shall not be affected or impaired by the
27 existence or occurrence of any of the following:

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

29 (2) The retention by the seller of a partial or
30 residual interest, including an equity interest, in the MO-

31 EBRA property, whether direct or indirect, or whether
32 subordinate or otherwise; or the right to recover costs
33 associated with taxes, franchise fees, or license fees
34 imposed on the collection of MO-EBRA revenue;

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

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

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

41 (6) Any subsequent financing order amending a
42 financing order; or

43 (7) Any application of an adjustment mechanism as
44 authorized by subdivision (7) of subsection 2 of section
45 386.920.

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

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

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

15 (3) To build, own, or purchase electricity storage
16 capacity to the extent that such investment is either
17 required by law or rule or is needed to increase the amount

18 of least-cost generation resources in the general portfolio
19 of the electrical corporation;

20 (4) To help customers invest in energy efficiency,
21 including financing assistance;

22 (5) To invest in network modernization to the extent
23 that the modernization is necessary to increase the amount
24 of least-cost generation resources able to be added to the
25 electrical corporation's system; except that proceeds shall
26 not be used for new transmission facilities; and

27 (6) To refinance any outstanding debt at a lower true
28 interest cost in such a way that lowers customer rates.

29 2. In considering any application for approval of the
30 use of MO-EBRA bond proceeds under subsection 1 of this
31 section, the commission shall use its regular process for
32 consideration of applications.

386.985. The commission shall have the authority to
2 promulgate rules to implement the provisions of sections
3 386.900 to 386.980. Any rule or portion of a rule, as that
4 term is defined in section 536.010, that is created under
5 the authority delegated in this section shall become
6 effective only if it complies with and is subject to all of
7 the provisions of chapter 536 and, if applicable, section
8 536.028. This section and chapter 536 are nonseverable and
9 if any of the powers vested with the general assembly
10 pursuant to chapter 536 to review, to delay the effective
11 date, or to disapprove and annul a rule are subsequently
12 held unconstitutional, then the grant of rulemaking
13 authority and any rule proposed or adopted after August 28,
14 2021, shall be invalid and void.

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