

FIRST REGULAR SESSION

SENATE COMMITTEE SUBSTITUTE FOR

SENATE BILL NO. 202

101ST GENERAL ASSEMBLY

0822S.02C

ADRIANE D. CROUSE, Secretary

AN ACT

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

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

Section A. Section 400.9-109, RSMo, is repealed and five
2 new sections enacted in lieu thereof, to be known as sections
3 393.1700, 393.1705, 393.1710, 393.1715, and 400.9-109, to read
4 as follows:

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

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

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

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

16 or transfers, other than as security, its interest in or
17 right to energy transition property;

18 (3) "Bondholder", a person who holds an energy
19 transition bond;

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

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

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

26 (7) "Energy transition bonds", bonds, debentures,
27 notes, certificates of participation, certificates of
28 beneficial interest, certificates of ownership, or other
29 evidences of indebtedness or ownership that are issued by an
30 electrical corporation or an assignee pursuant to a
31 financing order, the proceeds of which are used directly or
32 indirectly to recover, finance, or refinance commission-
33 approved energy transition costs and financing costs, and
34 that are secured by or payable from energy transition
35 property. If certificates of participation or ownership are
36 issued, references in this section to principal, interest,
37 or premium shall be construed to refer to comparable amounts
38 under those certificates;

39 (8) "Energy transition charge", the amounts authorized
40 by the commission to repay, finance, or refinance energy
41 transition costs and financing costs and that are, except as
42 otherwise provided for in this section, nonbypassable
43 charges imposed on and part of all retail customer bills,
44 collected by an electrical corporation or its successors or
45 assignees, or a collection agent, in full, separate and
46 apart from the electrical corporation's base rates, and paid
47 by all existing or future retail customers receiving

48 electrical service from the electrical corporation or its
49 successors or assignees under commission-approved rate
50 schedules, except for customers receiving electrical service
51 under special contracts as of August 28, 2021, even if a
52 retail customer elects to purchase electricity from an
53 alternative electricity supplier following a fundamental
54 change in regulation of public utilities in this state;

55 (9) "Energy transition costs", all of the following:

56 (a) Pretax costs with respect to a retired or
57 abandoned or to be retired or abandoned coal-fired electric
58 generating facility that is the subject of a petition for a
59 financing order filed under this section where such early
60 retirement or abandonment is deemed reasonable and prudent
61 by the commission through a final order issued by the
62 commission, include, but are not limited to, the
63 undepreciated investment in the retired or abandoned or to
64 be retired or abandoned coal-fired electric generating
65 facility and any facilities ancillary thereto or used in
66 conjunction therewith, costs of decommissioning and
67 restoring the site of the electric generating facility,
68 other applicable capital and operating costs, accrued
69 carrying charges, and deferred expenses, with the foregoing
70 to be reduced by applicable insurance, scrap and salvage
71 proceeds, and include the cost of retiring any existing
72 indebtedness, fees, costs, and expenses to modify existing
73 debt agreements or for waivers or consents related to
74 existing debt agreements;

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

79 (10) "Energy transition property", all of the
80 following:

81 (a) All rights and interests of an electrical
82 corporation or successor or assignee of the electrical
83 corporation under a financing order, including the right to
84 impose, bill, charge, collect, and receive energy transition
85 charges authorized under the financing order and to obtain
86 periodic adjustments to such charges as provided in the
87 financing order;

88 (b) All revenues, collections, claims, rights to
89 payments, payments, money, or proceeds arising from the
90 rights and interests specified in the financing order,
91 regardless of whether such revenues, collections, claims,
92 rights to payment, payments, money, or proceeds are imposed,
93 billed, received, collected, or maintained together with or
94 commingled with other revenues, collections, rights to
95 payment, payments, money, or proceeds;

96 (11) "Financing costs", includes all of the following:

97 (a) Interest and acquisition, defeasance, or
98 redemption premiums payable on energy transition bonds;

99 (b) Any payment required under an ancillary agreement
100 and any amount required to fund or replenish a reserve
101 account or other accounts established under the terms of any
102 indenture, ancillary agreement, or other financing documents
103 pertaining to energy transition bonds;

104 (c) Any other cost related to issuing, supporting,
105 repaying, refunding, and servicing energy transition bonds,
106 including servicing fees, accounting and auditing fees,
107 trustee fees, legal fees, consulting fees, structuring
108 adviser fees, administrative fees, placement and
109 underwriting fees, independent director and manager fees,
110 capitalized interest, rating agency fees, stock exchange

111 listing and compliance fees, security registration fees,
112 filing fees, information technology programming costs, and
113 any other costs necessary to otherwise ensure the timely
114 payment of energy transition bonds or other amounts or
115 charges payable in connection with the bonds, including
116 costs related to obtaining the financing order;

117 (d) Any taxes and license fees or other fees imposed
118 on the revenues generated from the collection of the energy
119 transition charge or otherwise resulting from the collection
120 of energy transition charges, in any such case whether paid,
121 payable, or accrued;

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

126 (12) "Financing order", an order from the commission
127 that authorizes the issuance of energy transition bonds; the
128 imposition, collection, and periodic adjustments of an
129 energy transition charge; the creation of energy transition
130 property; and the sale, assignment, or transfer of energy
131 transition property to an assignee;

132 (13) "Financing party", bondholders and trustees,
133 collateral agents, any party under an ancillary agreement,
134 or any other person acting for the benefit of bondholders;

135 (14) "Financing statement", the same as defined in
136 article 9 of the code;

137 (15) "Pledgee", a financing party to which an
138 electrical corporation or its successors or assignees
139 mortgages, negotiates, pledges, or creates a security
140 interest or lien on all or any portion of its interest in or
141 right to energy transition property;

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

145 (17) "Special contract", electrical service provided
146 under the terms of a special incremental load rate schedule
147 at a fixed price rate approved by the commission.

148 2. (1) An electrical corporation may petition the
149 commission for a financing order. The petition shall
150 include all of the following:

151 (a) A description of the coal-fired electric
152 generating facility or facilities that the electrical
153 corporation has retired or abandoned, or proposes to retire
154 or abandon, prior to the date that all undepreciated
155 investment relating thereto has been recovered through rates
156 and the reasons for undertaking such early retirement or
157 abandonment, or if the electrical corporation is subject to
158 a separate commission order or proceeding relating to such
159 retirement or abandonment as contemplated by subdivision (2)
160 of this subsection, and a description of the order or other
161 proceeding;

162 (b) The energy transition costs;

163 (c) An indicator of whether the electrical corporation
164 proposes to finance all or a portion of the energy
165 transition costs using energy transition bonds. If the
166 electrical corporation proposes to finance a portion of the
167 costs, the electrical corporation shall identify the
168 specific portion in the petition. By electing not to
169 finance all or any portion of such energy transition costs
170 using energy transition bonds, an electrical corporation
171 shall not be deemed to waive its right to recover such costs
172 pursuant to a separate proceeding with the commission;

173 (d) An estimate of the financing costs related to the
174 energy transition bonds;

175 (e) An estimate of the energy transition charges
176 necessary to recover the energy transition costs and
177 financing costs and the period for recovery of such costs;

178 (f) A comparison between the net present value of the
179 costs to customers that are estimated to result from the
180 issuance of energy transition bonds and the costs that would
181 result from the application of the traditional method of
182 financing and recovering the undepreciated investment of
183 facilities that may become energy transition costs from
184 customers. The comparison should demonstrate that the
185 issuance of energy transition bonds and the imposition of
186 energy transition charges are expected to provide
187 quantifiable benefits to customers;

188 (g) Direct testimony and schedules supporting the
189 petition.

190 (2) If an electrical corporation is subject to a
191 separate commission order or proceeding that governs the
192 type and amount of costs that could be included in energy
193 transition costs and the electrical corporation proposes to
194 finance all or a portion of the costs using energy
195 transition bonds, then, to the extent required or
196 contemplated by such order or proceeding, the electrical
197 corporation shall file a petition with the commission for
198 review and approval of those costs prior to or concurrently
199 with filing a petition for a financing order pursuant to
200 this section.

201 (3) (a) Proceedings on a petition submitted pursuant
202 to this subdivision begin with the petition by an electrical
203 corporation, filed subject to the time frame specified in
204 subdivision (2) of this subsection, if applicable, and shall

205 be disposed of in accordance with the requirements of this
206 section and the rules of the commission, except as follows:

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

211 b. No later than one hundred thirty-five days after
212 the date the petition is filed, the commission shall issue a
213 financing order or an order rejecting the petition;

214 c. An adversely affected party may seek judicial
215 review in accordance with sections 386.500 and 386.510.

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

219 a. Except for changes made pursuant to the formula-
220 based true-up mechanism authorized under this section, the
221 amount of energy transition costs to be financed using
222 energy transition bonds. The commission shall describe and
223 estimate the amount of financing costs that may be recovered
224 through energy transition charges and specify the period
225 over which energy transition costs and financing costs may
226 be recovered;

227 b. A finding that the proposed issuance of energy
228 transition bonds and the imposition and collection of an
229 energy transition charge are expected to provide
230 quantifiable benefits to customers as compared to the costs
231 to recover the energy transition costs that would have been
232 incurred absent the issuance of energy transition bonds;

233 c. A finding that the structuring and pricing of the
234 energy transition bonds are reasonably expected to result in
235 the lowest energy transition charges consistent with market

236 conditions at the time the energy transition bonds are
237 priced and the terms of the financing order;

238 d. A requirement that, for so long as the energy
239 transition bonds are outstanding and until all financing
240 costs have been paid in full, the imposition and collection
241 of energy transition charges authorized under a financing
242 order shall be nonbypassable and paid by all existing and
243 future retail customers receiving electrical service from
244 the electrical corporation or its successors or assignees
245 under commission-approved rate schedules except for
246 customers receiving electrical service under special
247 contracts on August 28, 2021, even if a retail customer
248 elects to purchase electricity from an alternative electric
249 supplier following a fundamental change in regulation of
250 public utilities in this state;

251 e. A formula-based true-up mechanism for making, at
252 least annually, expeditious periodic adjustments in the
253 energy transition charges that customers are required to pay
254 pursuant to the financing order and for making any
255 adjustments that are necessary to correct for any
256 overcollection or undercollection of the charges or to
257 otherwise ensure the timely payment of energy transition
258 bonds and financing costs and other required amounts and
259 charges payable in connection with the energy transition
260 bonds;

261 f. The energy transition property that is, or shall
262 be, created in favor of an electrical corporation or its
263 successors or assignees and that shall be used to pay or
264 secure energy transition bonds and all financing costs;

265 g. The degree of flexibility to be afforded to the
266 electrical corporation in establishing the terms and
267 conditions of the energy transition bonds, including, but

268 not limited to, repayment schedules, expected interest
269 rates, and other financing costs;

270 h. How energy transition charges will be allocated
271 among customer classes;

272 i. A requirement that, after the final terms of an
273 issuance of energy transition bonds have been established
274 and before the issuance of energy transition bonds, the
275 electrical corporation determines the resulting initial
276 energy transition charge in accordance with the financing
277 order and that such initial energy transition charge be
278 final and effective upon the issuance of such energy
279 transition bonds without further commission action so long
280 as the energy transition charge is consistent with the
281 financing order;

282 j. A method of tracing funds collected as energy
283 transition charges, or other proceeds of energy transition
284 property, determining that such method shall be deemed the
285 method of tracing such funds and determining the
286 identifiable cash proceeds of any energy transition property
287 subject to a financing order under applicable law;

288 k. A procedure that shall allow the electrical
289 corporation to earn a return, at the cost of capital
290 authorized from time to time by the commission in the
291 electrical corporation's rate proceedings, on any moneys
292 advanced by the electrical corporation to fund reserves, if
293 any, or capital accounts established under the terms of any
294 indenture, ancillary agreement, or other financing documents
295 pertaining to the energy transition bonds;

296 l. A procedure for the treatment of accumulated
297 deferred income taxes and excess deferred income taxes in
298 connection with the retired or abandoned or to be retired or
299 abandoned coal-fired electric generating facility. The net

300 benefits of accumulated deferred income taxes, including
301 excess deferred income taxes, relating to amounts that will
302 be recovered through issuance of energy transition bonds
303 shall be credited to retail customers by reducing the amount
304 of such energy transition bonds that would otherwise be
305 issued by the net present value of the related tax cash
306 flows, using a discount rate equal to the expected interest
307 rate on such energy transition bonds;

308 m. Include any other conditions that the commission
309 considers appropriate and that are authorized by this
310 section.

311 (c) A financing order issued to an electrical
312 corporation may provide that creation of the electrical
313 corporation's energy transition property is conditioned
314 upon, and simultaneous with, the sale or other transfer of
315 the energy transition property to an assignee and the pledge
316 of the energy transition property to secure energy
317 transition bonds.

318 (d) If the commission issues a financing order, the
319 electrical corporation shall file with the commission at
320 least annually a petition or a letter applying the formula-
321 based true-up mechanism and, based on estimates of
322 consumption for each rate class and other mathematical
323 factors, requesting administrative approval to make the
324 applicable adjustments. The review of the filing shall be
325 limited to determining whether there are any mathematical or
326 clerical errors in the application of the formula-based true-
327 up mechanism relating to the appropriate amount of any
328 overcollection or undercollection of energy transition
329 charges and the amount of an adjustment. The adjustments
330 shall ensure the recovery of revenues sufficient to provide
331 for the payment of principal, interest, acquisition,

332 defeasance, financing costs, or redemption premium and other
333 fees, costs, and charges in respect of energy transition
334 bonds approved under the financing order. Within thirty
335 days after receiving an electrical corporation's request
336 pursuant to this paragraph, the commission shall either
337 approve the request or inform the electrical corporation of
338 any mathematical or clerical errors in its calculation. If
339 the commission informs the electrical corporation of
340 mathematical or clerical errors in its calculation, the
341 electrical corporation may correct its error and refile its
342 request. The time frames previously described in this
343 paragraph shall apply to a refiled request.

344 (e) At the time of any transfer of energy transition
345 property to an assignee or the issuance of energy transition
346 bonds authorized thereby, whichever is earlier, a financing
347 order is irrevocable and, except for changes made pursuant
348 to the formula-based true-up mechanism authorized in this
349 section, the commission may not amend, modify, or terminate
350 the financing order by any subsequent action or reduce,
351 impair, postpone, terminate, or otherwise adjust energy
352 transition charges approved in the financing order. After
353 the issuance of a financing order, the electrical
354 corporation retains sole discretion regarding whether to
355 assign, sell, or otherwise transfer energy transition
356 property or to cause energy transition bonds to be issued,
357 including the right to defer or postpone such assignment,
358 sale, transfer, or issuance.

359 (4) At the request of an electrical corporation, the
360 commission may commence a proceeding and issue a subsequent
361 financing order that provides for refinancing, retiring, or
362 refunding energy transition bonds issued pursuant to the
363 original financing order if the commission finds that the

364 subsequent financing order satisfies all of the criteria
365 specified in this section for a financing order. Effective
366 upon retirement of the refunded energy transition bonds and
367 the issuance of new energy transition bonds, the commission
368 shall adjust the related energy transition charges
369 accordingly.

370 (5) (a) A financing order remains in effect and
371 energy transition property under the financing order
372 continues to exist until energy transition bonds issued
373 pursuant to the financing order have been paid in full or
374 defeased and, in each case, all commission-approved
375 financing costs of such energy transition bonds have been
376 recovered in full.

377 (b) A financing order issued to an electrical
378 corporation remains in effect and unabated notwithstanding
379 the reorganization, bankruptcy, or other insolvency
380 proceedings, merger, or sale of the electrical corporation
381 or its successors or assignees.

382 3. (1) The commission may not, in exercising its
383 powers and carrying out its duties regarding any matter
384 within its authority, consider the energy transition bonds
385 issued pursuant to a financing order to be the debt of the
386 electrical corporation other than for federal and state
387 income tax purposes, consider the energy transition charges
388 paid under the financing order to be the revenue of the
389 electrical corporation for any purpose, consider the energy
390 transition costs or financing costs specified in the
391 financing order to be the costs of the electrical
392 corporation, nor may the commission determine any action
393 taken by an electrical corporation which is consistent with
394 the financing order to be unjust or unreasonable, and

395 section 386.300 shall not apply to the issuance of energy
396 transition bonds.

397 (2) Energy transition charges shall not be utilized or
398 accounted for in determining the electrical corporation's
399 average overall rate, as defined in section 393.1655 and as
400 used to determine the maximum retail rate impact limitations
401 provided for by subsections 3 and 4 of section 393.1655.

402 (3) No electrical corporation is required to file a
403 petition for a financing order under this section or
404 otherwise utilize this section. An electrical corporation's
405 decision not to file a petition for a financing order under
406 this section or otherwise utilize this section shall not be
407 admissible in any commission proceeding nor shall it be
408 otherwise utilized or relied on by the commission in any
409 proceeding respecting the electrical corporation's rates or
410 its accounting, including, without limitation, any general
411 rate proceeding, fuel adjustment clause docket, or
412 proceedings relating to accounting authority, whether
413 initiated by the electrical corporation or otherwise. The
414 commission may not order or otherwise directly or indirectly
415 require an electrical corporation to use energy transition
416 bonds to recover energy transition costs or to finance any
417 project, addition, plant, facility, extension, capital
418 improvement, equipment, or any other expenditure. After the
419 issuance of a financing order, the electrical corporation
420 retains sole discretion regarding whether to cause the
421 energy transition bonds to be issued, including the right to
422 defer or postpone such sale, assignment, transfer, or
423 issuance. Nothing shall prevent the electrical corporation
424 from abandoning the issuance of energy transition bonds
425 under the financing order by filing with the commission a
426 statement of abandonment and the reasons therefor; provided,

427 that the electrical corporation's abandonment decision shall
428 not be deemed imprudent because of the potential
429 availability of energy transition bond financing.

430 (4) The commission may not refuse to allow an
431 electrical corporation to recover energy transition costs in
432 an otherwise permissible fashion, or refuse or condition
433 authorization or approval of the issuance and sale by an
434 electrical corporation of securities or the assumption by
435 the electrical corporation of liabilities or obligations,
436 because of the potential availability of energy transition
437 bond financing.

438 (5) The commission may not, directly or indirectly,
439 utilize or consider the debt reflected by the energy
440 transition bonds in establishing the electrical
441 corporation's capital structure used to determine any
442 regulatory matter, including but not limited to the
443 electrical corporation's revenue requirement used to set its
444 rates.

445 (6) The commission may not, directly or indirectly,
446 consider the existence of energy transition bonds or the
447 potential use of energy transition bond financing proceeds
448 in determining the electrical corporation's authorized rate
449 of return used to determine the electrical corporation's
450 revenue requirement used to set its rates.

451 4. The electric bills of an electrical corporation
452 that has obtained a financing order and caused energy
453 transition bonds to be issued shall comply with the
454 provisions of this subsection; however, the failure of an
455 electrical corporation to comply with this subsection does
456 not invalidate, impair, or affect any financing order,
457 energy transition property, energy transition charge, or

458 energy transition bonds. The electrical corporation shall
459 do the following:

460 (1) Explicitly reflect that a portion of the charges
461 on such bill represents energy transition charges approved
462 in a financing order issued to the electrical corporation
463 and, if the energy transition property has been transferred
464 to an assignee, shall include a statement to the effect that
465 the assignee is the owner of the rights to energy transition
466 charges and that the electrical corporation or other entity,
467 if applicable, is acting as a collection agent or servicer
468 for the assignee. The tariff applicable to customers shall
469 indicate the energy transition charge and the ownership of
470 the charge;

471 (2) Include the energy transition charge on each
472 customer's bill as a separate line item and include both the
473 rate and the amount of the charge on each bill.

474 5. (1) (a) All energy transition property that is
475 specified in a financing order constitutes an existing,
476 present intangible property right or interest therein,
477 notwithstanding that the imposition and collection of energy
478 transition charges depends on the electrical corporation, to
479 which the financing order is issued, performing its
480 servicing functions relating to the collection of energy
481 transition charges and on future electricity consumption.
482 The property exists:

483 a. Regardless of whether or not the revenues or
484 proceeds arising from the property have been billed, have
485 accrued, or have been collected; and

486 b. Notwithstanding the fact that the value or amount
487 of the property is dependent on the future provision of
488 service to customers by the electrical corporation or its

489 successors or assignees and the future consumption of
490 electricity by customers.

491 (b) Energy transition property specified in a
492 financing order exists until energy transition bonds issued
493 pursuant to the financing order are paid in full and all
494 financing costs and other costs of such energy transition
495 bonds have been recovered in full.

496 (c) All or any portion of energy transition property
497 specified in a financing order issued to an electrical
498 corporation may be transferred, sold, conveyed, or assigned
499 to a successor or assignee that is wholly owned, directly or
500 indirectly, by the electrical corporation and created for
501 the limited purpose of acquiring, owning, or administering
502 energy transition property or issuing energy transition
503 bonds under the financing order. All or any portion of
504 energy transition property may be pledged to secure energy
505 transition bonds issued pursuant to the financing order,
506 amounts payable to financing parties and to counterparties
507 under any ancillary agreements, and other financing costs.
508 Any transfer, sale, conveyance, assignment, grant of a
509 security interest in or pledge of energy transition property
510 by an electrical corporation, or an affiliate of the
511 electrical corporation, to an assignee, to the extent
512 previously authorized in a financing order, does not require
513 the prior consent and approval of the commission.

514 (d) If an electrical corporation defaults on any
515 required remittance of energy transition charges arising
516 from energy transition property specified in a financing
517 order, a court, upon application by an interested party, and
518 without limiting any other remedies available to the
519 applying party, shall order the sequestration and payment of
520 the revenues arising from the energy transition property to

521 the financing parties or their assignees. Any such
522 financing order remains in full force and effect
523 notwithstanding any reorganization, bankruptcy, or other
524 insolvency proceedings with respect to the electrical
525 corporation or its successors or assignees.

526 (e) The interest of a transferee, purchaser, acquirer,
527 assignee, or pledgee in energy transition property specified
528 in a financing order issued to an electrical corporation,
529 and in the revenue and collections arising from that
530 property, is not subject to setoff, counterclaim, surcharge,
531 or defense by the electrical corporation or any other person
532 or in connection with the reorganization, bankruptcy, or
533 other insolvency of the electrical corporation or any other
534 entity.

535 (f) Any successor to an electrical corporation,
536 whether pursuant to any reorganization, bankruptcy, or other
537 insolvency proceeding or whether pursuant to any merger or
538 acquisition, sale, or other business combination, or
539 transfer by operation of law, as a result of electrical
540 corporation restructuring or otherwise, shall perform and
541 satisfy all obligations of, and have the same rights under a
542 financing order as, the electrical corporation under the
543 financing order in the same manner and to the same extent as
544 the electrical corporation, including collecting and paying
545 to the person entitled to receive the revenues, collections,
546 payments, or proceeds of the energy transition property.
547 Nothing in this section is intended to limit or impair any
548 authority of the commission concerning the transfer or
549 succession of interests of public utilities.

550 (g) Energy transition bonds shall be nonrecourse to
551 the credit or any assets of the electrical corporation other

552 than the energy transition property as specified in the
553 financing order and any rights under any ancillary agreement.

554 (2) (a) The creation, perfection, and enforcement of
555 any security interest in energy transition property to
556 secure the repayment of the principal and interest and other
557 amounts payable in respect of energy transition bonds,
558 amounts payable under any ancillary agreement and other
559 financing costs are governed by this subsection and not by
560 the provisions of the code, except as otherwise provided in
561 this section.

562 (b) A security interest in energy transition property
563 is created, valid, and binding and perfected at the later of
564 the time:

565 a. The financing order is issued;

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

568 c. The debtor has rights in such energy transition
569 property or the power to transfer rights in such energy
570 transition property; or

571 d. Value is received for the energy transition
572 property.

573 The description of energy transition property in a security
574 agreement is sufficient if the description refers to this
575 section and the financing order creating the energy
576 transition property.

577 (c) A security interest shall attach as provided in
578 paragraph (b) of this subdivision without any physical
579 delivery of collateral or other act, and, upon the filing of
580 a financing statement with the office of the secretary of
581 state, the lien of the security interest shall be valid,
582 binding, and perfected against all parties having claims of

583 any kind in tort, contract, or otherwise against the person
584 granting the security interest, regardless of whether the
585 parties have notice of the lien. Also upon this filing, a
586 security interest or transfer of an interest in the energy
587 transition property shall be perfected against all parties
588 having claims of any kind, including any judicial lien or
589 other lien creditors, or any claims of the seller or
590 creditors of the seller, and shall have priority over all
591 competing claims other than any prior perfected security
592 interest, ownership interest, or assignment in the property
593 previously perfected in accordance with this section.

594 (d) The secretary of state shall maintain any
595 financing statement filed to perfect any security interest
596 under this section in the same manner that the secretary
597 maintains financing statements filed to perfect security
598 interest in collateral owned by transmitting utilities under
599 the code. The filing of a financing statement under this
600 section shall be governed by the provisions regarding the
601 filing of financing statements in the code.

602 (e) The priority of a security interest in energy
603 transition property is not affected by the commingling of
604 energy transition charges with other amounts. Any pledgee
605 or secured party shall have a perfected security interest in
606 the amount of all energy transition charges that are
607 deposited in any cash or deposit account of the qualifying
608 electrical corporation in which energy transition charges
609 have been commingled with other funds and any other security
610 interest that may apply to those funds shall be terminated
611 when they are transferred to a segregated account for the
612 assignee or a financing party.

613 (f) No application of the formula-based true-up
614 mechanism as provided in this section will affect the

615 validity, perfection, or priority of a security interest in
616 or transfer of energy transition property.

617 (g) If a default or termination occurs under the
618 energy transition bonds, the financing parties or their
619 representatives may foreclose on or otherwise enforce their
620 lien and security interest in any energy transition property
621 as if they were secured parties with a perfected and prior
622 lien under the code, and the commission may order amounts
623 arising from energy transition charges be transferred to a
624 separate account for the financing parties' benefit, to
625 which their lien and security interest shall apply. On
626 application by or on behalf of the financing parties, the
627 circuit court for the county or city in which the electrical
628 corporation's headquarters is located shall order the
629 sequestration and payment to them of revenues arising from
630 the energy transition charges.

631 (3) (a) Any sale, assignment, or other transfer of
632 energy transition property shall be an absolute transfer and
633 true sale of, and not a pledge of or secured transaction
634 relating to, the seller's right, title, and interest in, to,
635 and under the energy transition property if the documents
636 governing the transaction expressly state that the
637 transaction is a sale or other absolute transfer other than
638 for federal and state income tax purposes. For all purposes
639 other than federal and state income tax purposes, the
640 parties' characterization of a transaction as a sale of an
641 interest in energy transition property shall be conclusive
642 that the transaction is a true sale and that ownership has
643 passed to the party characterized as the purchaser,
644 regardless of whether the purchaser has possession of any
645 documents evidencing or pertaining to the interest. A

646 transfer of an interest in energy transition property may
647 occur only when all of the following have occurred:

648 a. The financing order creating the energy transition
649 property has become effective;

650 b. The documents evidencing the transfer of energy
651 transition property have been executed by the assignor and
652 delivered to the assignee; and

653 c. Value is received for the energy transition
654 property.

655 After such a transaction, the energy transition property is
656 not subject to any claims of the transferor or the
657 transferor's creditors, other than creditors holding a prior
658 security interest in the energy transition property
659 perfected in accordance with subdivision (2) of subsection 5
660 of this section.

661 (b) The characterization of the sale, assignment, or
662 other transfer as an absolute transfer and true sale and the
663 corresponding characterization of the property interest of
664 the purchaser, shall not be affected or impaired by the
665 occurrence of any of the following factors:

666 a. Commingling of energy transition charges with other
667 amounts;

668 b. The retention by the seller of (i) a partial or
669 residual interest, including an equity interest, in the
670 energy transition property, whether direct or indirect, or
671 whether subordinate or otherwise, or (ii) the right to
672 recover costs associated with taxes, franchise fees, or
673 license fees imposed on the collection of energy transition
674 charges;

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

677 d. Any indemnification rights, obligations, or
678 repurchase rights made or provided by the seller;

679 e. The obligation of the seller to collect energy
680 transition charges on behalf of an assignee;

681 f. The transferor acting as the servicer of the energy
682 transition charges or the existence of any contract that
683 authorizes or requires the electrical corporation, to the
684 extent that any interest in energy transition property is
685 sold or assigned, to contract with the assignee or any
686 financing party that it will continue to operate its system
687 to provide service to its customers, will collect amounts in
688 respect of the energy transition charges for the benefit and
689 account of such assignee or financing party, and will
690 account for and remit such amounts to or for the account of
691 such assignee or financing party;

692 g. The treatment of the sale, conveyance, assignment,
693 or other transfer for tax, financial reporting, or other
694 purposes;

695 h. The granting or providing to bondholders a
696 preferred right to the energy transition property or credit
697 enhancement by the electrical corporation or its affiliates
698 with respect to such energy transition bonds;

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

701 (c) Any right that an electrical corporation has in
702 the energy transition property before its pledge, sale, or
703 transfer or any other right created under this section or
704 created in the financing order and assignable under this
705 section or assignable pursuant to a financing order is
706 property in the form of a contract right or a chose in
707 action. Transfer of an interest in energy transition

708 property to an assignee is enforceable only upon the later
709 of:

710 a. The issuance of a financing order;

711 b. The assignor having rights in such energy
712 transition property or the power to transfer rights in such
713 energy transition property to an assignee;

714 c. The execution and delivery by the assignor of
715 transfer documents in connection with the issuance of energy
716 transition bonds; and

717 d. The receipt of value for the energy transition
718 property.

719 An enforceable transfer of an interest in energy transition
720 property to an assignee is perfected against all third
721 parties, including subsequent judicial or other lien
722 creditors, when a notice of that transfer has been given by
723 the filing of a financing statement in accordance with
724 paragraph (c) of subdivision (2) of this subsection. The
725 transfer is perfected against third parties as of the date
726 of filing.

727 (d) The secretary of state shall maintain any
728 financing statement filed to perfect any sale, assignment,
729 or transfer of energy transition property under this section
730 in the same manner that the secretary maintains financing
731 statements filed to perfect security interest in collateral
732 owned by transmitting utilities under the code. The filing
733 of any financing statement under this section shall be
734 governed by the provisions regarding the filing of financing
735 statements in the code. The filing of such a financing
736 statement is the only method of perfecting a transfer of
737 energy transition property.

738 (e) The priority of a transfer perfected under this
739 section is not impaired by any later modification of the
740 financing order or energy transition property or by the
741 commingling of funds arising from energy transition property
742 with other funds. Any other security interest that may
743 apply to those funds, other than a security interest
744 perfected under subdivision (2) of this subsection, is
745 terminated when they are transferred to a segregated account
746 for the assignee or a financing party. If energy transition
747 property has been transferred to an assignee or financing
748 party, any proceeds of that property shall be held in trust
749 for the assignee or financing party.

750 (f) The priority of the conflicting interests of
751 assignees in the same interest or rights in any energy
752 transition property is determined as follows:

753 a. Conflicting perfected interests or rights of
754 assignees rank according to priority in time of perfection.
755 Priority dates from the time a filing covering the transfer
756 is made in accordance with paragraph (c) of subdivision (2)
757 of this subsection;

758 b. A perfected interest or right of an assignee has
759 priority over a conflicting unperfected interest or right of
760 an assignee;

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

764 6. The description of energy transition property being
765 transferred to an assignee in any sale agreement, purchase
766 agreement, or other transfer agreement, granted or pledged
767 to a pledgee in any security agreement, pledge agreement, or
768 other security document, or indicated in any financing
769 statement is only sufficient if such description or

770 indication refers to the financing order that created the
771 energy transition property and states that the agreement or
772 financing statement covers all or part of the property
773 described in the financing order. This section applies to
774 all purported transfers of, and all purported grants or
775 liens or security interests in, energy transition property,
776 regardless of whether the related sale agreement, purchase
777 agreement, other transfer agreement, security agreement,
778 pledge agreement, or other security document was entered
779 into, or any financing statement was filed.

780 7. All financing statements referenced in this section
781 are subject to part 5 of article 9 of the code, except that,
782 notwithstanding any provision therein to the contrary, such
783 financing statements shall be effective from filing until
784 formally terminated of record and no continuation statements
785 need be filed to maintain the effectiveness of such
786 financing statements and the requirement as to continuation
787 statements does not apply.

788 8. The law governing the validity, enforceability,
789 attachment, perfection, priority, and exercise of remedies
790 with respect to the transfer of an interest or right or the
791 pledge or creation of a security interest in any energy
792 transition property shall be the laws of this state.

793 9. Neither the state nor its political subdivisions
794 are liable on any energy transition bonds, and the bonds are
795 not a debt or a general obligation of the state or any of
796 its political subdivisions, agencies, or instrumentalities,
797 nor are they special obligations or indebtedness of the
798 state or any agency or political subdivision. An issue of
799 energy transition bonds does not, directly, indirectly, or
800 contingently, obligate the state or any agency, political
801 subdivision, or instrumentality of the state to levy any tax

802 or make any appropriation for payment of the energy
803 transition bonds, other than in their capacity as consumers
804 of electricity. All energy transition bonds shall contain
805 on the face thereof a statement to the following effect:
806 "Neither the full faith and credit nor the taxing power of
807 the state of Missouri is pledged to the payment of the
808 principal of, or interest on, this bond."

809 10. All of the following entities may legally invest
810 any sinking funds, moneys, or other funds in energy
811 transition bonds:

812 (1) Subject to applicable statutory restrictions on
813 state or local investment authority, the state, units of
814 local government, political subdivisions, public bodies, and
815 public officers, except for members of the commission, the
816 commission's technical advisory and other staff, or
817 employees of the office of the public counsel;

818 (2) Banks and bankers, savings and loan associations,
819 credit unions, trust companies, savings banks and
820 institutions, investment companies, insurance companies,
821 insurance associations, and other persons carrying on a
822 banking or insurance business;

823 (3) Personal representatives, guardians, trustees, and
824 other fiduciaries;

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

827 11. (1) The state and its agencies, including the
828 commission, pledge and agree with bondholders, the owners of
829 the energy transition property, and other financing parties
830 that the state and its agencies will not take any action
831 listed in this subdivision. This subdivision does not
832 preclude limitation or alteration if full compensation is
833 made by law for the full protection of the energy transition

834 charges collected pursuant to a financing order and of the
835 bondholders and any assignee or financing party entering
836 into a contract with the electrical corporation. The
837 prohibited actions are as follows:

838 (a) Alter the provisions of this section, which
839 authorize the commission to create an irrevocable contract
840 right or chose in action by the issuance of a financing
841 order, to create energy transition property, and make the
842 energy transition charges imposed by a financing order
843 irrevocable, binding, or nonbypassable charges for all
844 existing and future retail customers of the electrical
845 corporation except its existing special contract customers;

846 (b) Take or permit any action that impairs or would
847 impair the value of energy transition property or the
848 security for the energy transition bonds or revises the
849 energy transition costs for which recovery is authorized;

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

852 (d) Except for changes made pursuant to the formula-
853 based true-up mechanism authorized under this section,
854 reduce, alter, or impair energy transition charges that are
855 to be imposed, billed, charged, collected, and remitted for
856 the benefit of the bondholders, any assignee, and any other
857 financing parties until any and all principal, interest,
858 premium, financing costs and other fees, expenses, or
859 charges incurred, and any contracts to be performed, in
860 connection with the related energy transition bonds have
861 been paid and performed in full.

862 (2) Any person or entity that issues energy transition
863 bonds may include the language specified in this subsection
864 in the energy transition bonds and related documentation.

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

869 13. If there is a conflict between this section and
870 any other law regarding the attachment, assignment, or
871 perfection, or the effect of perfection, or priority of,
872 assignment or transfer of, or security interest in energy
873 transition property, this section shall govern.

874 14. If any provision of this section is held invalid
875 or is invalidated, superseded, replaced, repealed, or
876 expires for any reason, that occurrence does not affect the
877 validity of any action allowed under this section which is
878 taken by an electrical corporation, an assignee, a financing
879 party, a collection agent, or a party to an ancillary
880 agreement; and any such action remains in full force and
881 effect with respect to all energy transition bonds issued or
882 authorized in a financing order issued under this section
883 before the date that such provision is held invalid or is
884 invalidated, superseded, replaced, or repealed, or expires
885 for any reason.

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

3 (1) Renewable generation facilities which produce
4 electric energy from wind, solar thermal sources,
5 photovoltaic cells and panels, dedicated crops grown for
6 energy production, cellulosic agricultural residues, plant
7 residues, methane from landfills, from agricultural
8 operations, or from wastewater treatment, thermal
9 depolymerization or pyrolysis for converting waste material
10 to energy, clean and untreated wood such as pallets,
11 hydropower, not including pumped storage, that does not

12 require a new diversion or impoundment of water and that has
13 a nameplate rating of ten megawatts or less, and fuel cells
14 using hydrogen produced by one of the above-named
15 replacement sources;

16 (2) Generation facilities which produce electric
17 energy from natural gas that enable the electrical
18 corporation to:

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

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

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

26 (3) Energy storage facilities that enable the
27 electrical corporation to:

28 (a) Provide electric energy when renewable generation
29 facilities are not generating electric energy in sufficient
30 quantities to meet the needs of the electrical corporation's
31 system;

32 (b) Meet requirements of the electrical corporation's
33 regional transmission organization; or

34 (c) Serve the objectives of both paragraphs (a) and
35 (b) of this subdivision; and

36 (4) Transmission facilities that enable the delivery
37 of electric energy from renewable generation facilities or
38 energy storage facilities, including but not limited to,
39 interconnection, network upgrades, voltage and reactive
40 power support, and transmission facilities needed to
41 maintain reliability as a result of the retirement of coal-
42 fired generation facilities.

43 2. If requested by an electrical corporation in a
44 petition filed concurrently with a petition filed under
45 subsection 2 of section 393.1700 and notwithstanding any
46 other provision of chapter 386 or 393 to the contrary,
47 including section 393.170 which section shall not apply to
48 the construction of replacement resources as defined in
49 subsection 1 of this section:

50 (1) The commission shall approve investment in
51 replacement resources by the electrical corporation of an
52 amount that is approximately equal to the undepreciated
53 investment in the coal-fired electric generating facilities
54 covered by such petition to acquire or build an existing or
55 new renewable energy resource to replace the retired or
56 abandoned or to be retired or abandoned coal-fired unit.
57 There is no requirement that the replacement resource's
58 capacity or energy production match the energy or capacity
59 production of the retired or abandoned coal-fired unit.
60 Such approval shall constitute an affirmative and binding
61 determination by the commission, to be applied in all
62 subsequent proceedings respecting the rates of the
63 electrical corporation, that such investment is prudent and
64 reasonable, that the replacement resource is necessary for
65 the electrical corporation's provision of electric service
66 to its customers, and that such investment shall be
67 reflected in the revenue requirement used to set the
68 electrical corporation's base rates, subject only to the
69 commission's authority to determine that the electrical
70 corporation did not manage or execute the project in a
71 reasonable and prudent manner in some respect and its
72 authority to disallow for ratemaking purposes only that
73 portion of the investment that would not have been incurred

74 had the unreasonable or imprudent management or execution of
75 the project not occurred; and

76 (2) The commission shall create a deferral mechanism
77 by which the electrical corporation shall defer, to a
78 regulatory asset or regulatory liability as appropriate, the
79 changes in the electrical corporation's revenue requirement
80 used to last set its base rates as specified in this
81 subdivision. Such changes shall be deferred during the
82 period starting on the date of retirement or abandonment of
83 the subject coal-fired unit and ending when the electrical
84 corporation is the subject of the petition and base rates
85 are changed as the result of a general rate proceeding where
86 the rate base cutoff date in that general rate proceeding
87 occurs on or after the retirement or abandonment. For
88 purposes of this subdivision, the changes in the electrical
89 corporation's revenue requirement that shall be deferred
90 shall only consist of:

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

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

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

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

- 105 (e) Labor and benefits costs for employees or
106 contractors who work at the replacement resources; and
107 (f) Nonlabor, nonfuel operations, and maintenance
108 costs of the replacement resources.

109 The base against which changes under paragraphs (a), (b),
110 and (c) of this subdivision shall be the values of each such
111 item used to set the electrical corporation's base electric
112 rates in its last general rate proceeding concluded prior to
113 the time the deferrals are made, provided, if the docketed
114 record in such general rate proceeding does not specify one
115 or more necessary revenue requirement parameters to
116 establish the base for an item because of a "black box"
117 settlement or otherwise, the commission shall, in the docket
118 created by a petition filed under this section and based on
119 the docketed record in such prior general rate proceeding,
120 establish the missing parameters, which shall then be used
121 to accomplish the deferrals. The base with respect to
122 paragraphs (d), (e), and (f) of this subdivision shall be
123 zero.

124 (3) The commission shall also create a deferral
125 mechanism by which the electrical corporation shall defer to
126 a regulatory asset the changes in the electrical
127 corporation's revenue requirement last used to set its base
128 rates as specified in this subdivision. Such changes shall
129 be deferred during the period beginning on the date
130 deferrals cease under subdivision (2) of this subsection and
131 ending when the electrical corporation's base rates are next
132 changed as a result of a general rate proceeding. For
133 purposes of this subdivision, such changes in the electrical
134 corporation's revenue requirement that shall be deferred
135 shall only consist of:

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

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

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

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

150 Notwithstanding the foregoing provisions of this
151 subdivision, deferrals to the regulatory asset created by
152 this subdivision shall cease at the earlier of the date the
153 electrical corporation's base rates are first changed after
154 the replacement resource is recorded to plant in service on
155 the electrical corporation's books where the rate base
156 cutoff date in that general rate proceeding occurred on or
157 after the retirement or abandonment, or the effective date
158 of rates from a base rate case that shall be filed no later
159 than one year after the coal-fired unit was retired or
160 abandoned. If there is more than one replacement resource
161 for the retired or abandoned coal plant and if one or more
162 such replacement resource is placed in service prior to the
163 rate base cutoff date in the general rate proceeding
164 described in subdivision (2) of this subsection, the
165 deferrals called for under this subdivision shall be reduced
166 as needed to reflect that event. The weighted average cost

167 of capital to be deferred under paragraph (a) of this
168 subdivision shall be the value used to set the electrical
169 corporation's base electric rates in its last general rate
170 proceeding concluded prior to the time the deferrals are
171 made, provided, if the docketed record in such general rate
172 proceeding does not specify one or more necessary revenue
173 requirement parameters to establish the base for an item
174 because of a "black box" settlement or otherwise, the
175 commission shall, in the docket created by a petition filed
176 under this section and based on the docketed record in such
177 prior general rate proceeding, establish the missing
178 parameters, which shall then be used to accomplish the
179 deferrals. The base with respect to paragraphs (b), (c),
180 and (d) of this subdivision shall be zero.

181 (4) It is the intention of this subsection to the
182 maximum extent practicable that electrical corporation
183 earnings shall not be materially reduced or increased on
184 account of the retirement or abandonment of the coal-fired
185 unit during the interval between when the coal-fired unit is
186 retired or abandoned and the date when the electrical
187 corporation's base rates are changed to reflect the
188 investment in a replacement resource, subject to the
189 requirement that deferrals under subdivision (3) of this
190 subsection end no later than the date base rates are reset
191 in a general rate proceeding filed no later than one year
192 after the coal-fired unit was retired or abandoned.

193 (5) Notwithstanding the provisions of section 393.1400
194 to the contrary, a replacement resource shall not constitute
195 "qualifying electric plant" for purposes of section
196 393.1400, nor shall it constitute a renewable energy
197 resource under section 393.1030, during the period when a
198 deferral is occurring under subdivision (2) or (3) of this

199 subsection. In addition, and notwithstanding the provisions
200 of section 393.1400 to the contrary, deferrals required by
201 this section relating to the electrical corporation's
202 undepreciated investment in the retired or abandoned coal-
203 fired unit shall not constitute a change in accumulated
204 depreciation when determining the return deferred on
205 qualifying electric plant under section 393.1400.

206 (6) Parts of regulatory asset or liability balances
207 created under this section that are not yet being recovered
208 or returned through rates shall include carrying costs at
209 the electrical corporation's weighted average cost of
210 capital last used to set its base electric service rates or,
211 if such cost of capital was not specified for the revenue
212 requirement last used to set such electric service rates at
213 the weighted average cost of capital determined by the
214 commission under subdivision (3) of this subsection, in each
215 case plus applicable federal, state, and local income or
216 excise taxes. All regulatory asset or liability balances
217 from deferrals under this subsection shall be recovered in
218 base rates over a period equal to the remaining useful life
219 of the replacement resource.

220 (7) In each general rate proceeding concluded after a
221 deferral commences under subdivision (2) or (3) of this
222 subsection, the regulatory asset or liability balances
223 arising from such deferrals, as of the rate base cutoff
224 date, shall be included in the electrical corporation's rate
225 base without any offset, reduction, or adjustment based upon
226 consideration of any other factor, other than to reflect any
227 prudence disallowances ordered by the commission, with the
228 regulatory asset balances arising from such deferrals that
229 occur after the rate base cutoff date to be included in rate
230 base in the next general rate proceeding. The provisions of

231 this section shall not be construed to affect existing law
232 respecting burdens of production and persuasion in general
233 rate proceedings.

234 3. Proceedings on a petition submitted pursuant to
235 this section begin with the filing of a petition by an
236 electrical corporation under this section that is filed
237 concurrently with a petition submitted under section
238 393.1700, and shall be disposed of in accordance with the
239 requirements of chapters 386 and 393 and the rules of the
240 commission, except as follows:

241 (1) Within fourteen days after the date the petition
242 is filed, the commission shall establish a procedural
243 schedule that permits a commission decision no later than
244 one hundred thirty-five days after the date the petition is
245 filed. Such procedural schedule shall contain the same
246 milestones and requirements as the procedural schedule
247 adopted in a proceeding seeking approval of a financing
248 order under section 393.1700 and shall run concurrently
249 therewith;

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

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

9 commenced prior to the rate base cutoff date in one of the
10 electrical corporation's general rate cases, the commission
11 shall, without limiting recoveries outside the context of a
12 general rate case as contemplated by rate adjustment
13 mechanisms approved under the provisions of subsection 1 of
14 section 386.266:

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

20 (2) Include in the revenue requirement used to set
21 base rates in that general rate case an additional amount
22 equal to the common equity earnings the electrical
23 corporation would have received had it, in lieu of entering
24 into each such purchased power agreement, instead invested
25 in and placed in service, on the date the term of each such
26 purchased power agreement commenced, a renewable energy
27 resource of the type being operated to supply energy under
28 each such purchased power agreement with a capacity
29 sufficient to provide the quantity of energy being purchased
30 under each such purchased power agreement. In determining
31 the additional amount required by this subdivision, the
32 commission shall utilize the common equity return on rate
33 base and the common equity percentage used to determine the
34 revenue requirement in that general rate case, provided, if
35 the docketed record in such general rate proceeding does not
36 specify one or more necessary revenue requirement parameters
37 to establish the common equity return on rate base and the
38 common equity percentage used in that general rate case
39 because of a "black box" settlement or otherwise, the
40 commission shall, in the docket created by a petition filed

41 under this section and based on the docketed record in such
42 prior general rate proceeding, establish the missing
43 parameters, which shall then be used to quantify the common
44 equity earnings, and shall also include in such revenue
45 requirement applicable federal, state, and local income and
46 excise taxes associated with such additional amount.

47 2. Subdivisions (1) and (2) of subsection 1 of this
48 section shall continue to be included in the revenue
49 requirement used to set rates in each subsequent electrical
50 corporation general rate case where the term of the
51 purchased power agreement remains ongoing as of the rate
52 base cutoff date in that proceeding. The amount included in
53 the revenue requirement in subsequent regular rate cases for
54 subdivision (1) of subsection 1 of this section shall be
55 based upon costs as of the rate base cutoff date in that
56 case. Except as specifically provided for in this
57 subdivision, the amount included in the revenue requirement
58 in subsequent general rate cases for subdivision (2) of
59 subsection 1 of this section shall be calculated in the same
60 manner as calculated for subdivision (2) of subsection 1 of
61 this section in the first general rate case where such
62 amount was determined and shall not be recalculated in
63 subsequent general rate cases, except that the calculation
64 in each subsequent general rate case shall utilize the
65 common equity return on rate base and the common equity
66 percentage used to determine the revenue requirement in that
67 subsequent case; provided, if the docketed record in such
68 subsequent general rate proceeding does not specify one or
69 more necessary revenue requirement parameters to establish
70 the common equity return on rate base and the common equity
71 percentage used in that general rate case because of a
72 "black box" settlement or otherwise, the commission shall,

73 in the docket created by a subsequent general rate case and
74 based on the docketed record in such prior general rate
75 proceeding, establish the missing parameters, which shall
76 then be used to quantify the common equity earnings, and
77 shall account for accumulated depreciation that would have
78 been accrued had the electric utility invested in and placed
79 a renewable energy resource in service instead of entering
80 into a purchased power agreement.

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

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

18 2. If the commission fails to issue a determination
19 within one hundred thirty-five days that a petition for
20 determination of ratemaking principles and treatment is
21 filed, the ratemaking principles and treatment proposed by

22 the petitioning electrical corporation shall be deemed to
23 have been approved by the commission.

24 3. Subject to the provisions of subsection 4 of this
25 section, ratemaking principles and treatment approved by the
26 commission, or deemed to have been approved under subsection
27 2 of this section, shall be binding for ratemaking purposes.

28 4. (1) An electrical corporation with ratemaking
29 principles and treatment approved by the commission, or
30 deemed to have been approved under subsection 2 of this
31 section, shall monitor the major factors and circumstances
32 relating to the facility to which such principles and
33 treatment apply. Such factors and circumstances include,
34 but are not limited to:

35 (a) Terrorist activity or an act of God;

36 (b) A significant change in federal or state tax laws;

37 (c) A significant change in federal utility laws or
38 regulations or a significant change in generally accepted
39 accounting principles;

40 (d) An unexpected, extended outage or shutdown of a
41 major generating unit, other than any major generating unit
42 shut down due to an extended outage at the time of the
43 approval of the ratemaking principles and treatment;

44 (e) A significant change in the cost or reliability of
45 power generation technologies;

46 (f) A significant change in fuel prices and wholesale
47 electric market conditions;

48 (g) A significant change in the cost or effectiveness
49 of emission control technologies;

50 (h) A significant change in the price of emission
51 allowances;

52 (i) A significant change in the electrical
53 corporation's load forecast;

54 (j) A significant change in capital market conditions;

55 (k) A significant change in the scope or effective
56 dates of environmental regulations; or

57 (l) A significant change in federal or state
58 environmental laws.

59 (2) If the electrical corporation determines that one
60 or more major factor or circumstance has changed in a manner
61 that warrants a change in the approved ratemaking principles
62 and treatment, then it shall file a notice in the docket in
63 which the approved ratemaking principles and treatment were
64 established within forty-five days of any such
65 determination. In its notification, the electrical
66 corporation shall:

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

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

73 (c) Provide detailed workpapers that support the
74 evaluation and the process whereby proposed changes were
75 developed.

76 (3) If a party has concerns regarding the proposed
77 changes, that party shall file a notice of its concerns
78 within thirty days of the electrical corporation's filing.
79 If the parties do not reach agreement on changes to the
80 ratemaking principles and treatment within ninety days of
81 the date the electrical corporation filed its notice,
82 whether the previously approved ratemaking and treatment
83 will be changed shall be determined by the commission. If a
84 party to the docket in which the approved ratemaking
85 principles and treatment were approved believes that one or

86 more major factor or circumstance has changed in a manner
87 that warrants a change in the approved ratemaking principles
88 and treatment and if the electrical corporation does not
89 agree the principles and treatment should be changed, such
90 party shall file a notice in the docket in which the
91 approved ratemaking principles and treatment were
92 established within forty-five days of any such
93 determination. In its notification, such party shall:

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

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

100 (c) Provide detailed workpapers that support the
101 evaluation and the process whereby proposed changes were
102 developed.

103 (4) If a party, including the electrical corporation,
104 has concerns regarding the proposed changes, that party
105 shall file a notice of its concerns within thirty days of
106 the other party's filing. If the parties do not reach
107 agreement on changes to the ratemaking principles and
108 treatment within ninety days of the date the notice was
109 filed, whether the previously approved ratemaking and
110 treatment will be changed shall be determined by the
111 commission.

112 5. A determination of ratemaking principles and
113 treatment under this section does not preclude an electrical
114 corporation from also petitioning the commission under
115 either or both of sections 393.1700 and 393.1705, provided
116 that any costs to which such ratemaking principles and
117 treatment would have applied in the electrical corporation's

118 **general rate proceedings which become funded by energy**
119 **transition bond proceeds from an energy transition bond**
120 **issued under section 393.1700 shall not thereafter be**
121 **reflected in the electrical corporation's base rates.**

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

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

6 (2) An agricultural lien;

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

9 (4) A consignment;

10 (5) A security interest arising under section 400.2-
11 401, 400.2-505, 400.2-711(3) or 400.2A-508(5), as provided
12 in section 400.9-110; and

13 (6) A security interest arising under section 400.4-
14 210 or 400.5-118.

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

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

20 (1) A statute, regulation, or treaty of the United
21 States preempts this article;

22 (2) Another statute of this state expressly governs
23 the creation, perfection, priority, or enforcement of a
24 security interest created by this state or a governmental
25 unit of this state;

26 (3) A statute of another state, a foreign country, or
27 a governmental unit of another state or a foreign country,
28 other than a statute generally applicable to security

29 interests, expressly governs creation, perfection, priority,
30 or enforcement of a security interest created by the state,
31 country, or governmental unit; or

32 (4) The rights of a transferee beneficiary or
33 nominated person under a letter of credit are independent
34 and superior under section 400.5-114.

35 (d) This article does not apply to:

36 (1) A landlord's lien, other than an agricultural lien;

37 (2) A lien, other than an agricultural lien, given by
38 statute or other rule of law for services or materials, but
39 section 400.9-333 applies with respect to priority of the
40 lien;

41 (3) An assignment of a claim for wages, salary, or
42 other compensation of an employee;

43 (4) A sale of accounts, chattel paper, payment
44 intangibles, or promissory notes as part of a sale of the
45 business out of which they arose;

46 (5) An assignment of accounts, chattel paper, payment
47 intangibles, or promissory notes which is for the purpose of
48 collection only;

49 (6) An assignment of a right to payment under a
50 contract to an assignee that is also obligated to perform
51 under the contract;

52 (7) An assignment of a single account, payment
53 intangible, or promissory note to an assignee in full or
54 partial satisfaction of a preexisting indebtedness;

55 (8) A transfer of an interest in or an assignment of a
56 claim under a policy of insurance, other than an assignment
57 by or to a health-care provider of a health-care-insurance
58 receivable and any subsequent assignment of the right to
59 payment, but sections 400.9-315 and 400.9-322 apply with
60 respect to proceeds and priorities in proceeds;

61 (9) An assignment of a right represented by a
62 judgment, other than a judgment taken on a right to payment
63 that was collateral;

64 (10) A right of recoupment or set-off, but:

65 (A) Section 400.9-340 applies with respect to the
66 effectiveness of rights of recoupment or set-off against
67 deposit accounts; and

68 (B) Section 400.9-404 applies with respect to defenses
69 or claims of an account debtor;

70 (11) The creation or transfer of an interest in or
71 lien on real property, including a lease or rents
72 thereunder, except to the extent that provision is made for:

73 (A) Liens on real property in sections 400.9-203 and
74 400.9-308;

75 (B) Fixtures in section 400.9-334;

76 (C) Fixture filings in sections 400.9-501, 400.9-502,
77 400.9-512, 400.9-516 and 400.9-519; and

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

80 (12) An assignment of a claim arising in tort, other
81 than a commercial tort claim, but sections 400.9-315 and
82 400.9-322 apply with respect to proceeds and priorities in
83 proceeds; [or]

84 (13) An assignment of a deposit account in a consumer
85 transaction, but sections 400.9-315 and 400.9-322 apply with
86 respect to proceeds and priorities in proceeds; [or]

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

91 (15) An assignment of a claim or right to receive
92 benefits under a special needs trust as described in 42

93 U.S.C. Section 1396p(d)(4), as amended from time to time;
94 [or]

95 (16) A transfer by a government or governmental
96 subdivision or agency; or

97 (17) The creation, perfection, priority, or
98 enforcement of any sale, assignment of, pledge of, security
99 interest in, or other transfer of, any interest or right or
100 portion of any interest or right in any energy transition
101 property, as defined in section 393.1700.

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