

SECOND REGULAR SESSION

SENATE BILL NO. 903

100TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR WIELAND.

Read 1st time January 16, 2020, and ordered printed.

ADRIANE D. CROUSE, Secretary.

4962S.011

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 seventeen
2 new sections, to be known as sections 386.900, 386.910, 386.915, 386.920,
3 386.925, 386.930, 386.935, 386.940, 386.945, 386.950, 386.955, 386.960, 386.965,
4 386.970, 386.975, 386.980, and 386.985, to read as follows:

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

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

(1) "Ancillary agreement", any bond, insurance policy, letter of
2 credit, reserve account, surety bond, interest rate lock or swap
3 arrangement, hedging arrangement, liquidity or credit support
4 arrangement, or other financial arrangement entered into in
5 connection with MO-EBRA bonds that is designed to promote the credit
6 quality and marketability of the MO-EBRA bonds or to mitigate the risk
7 of an increase in interest rates;

(2) "Assignee", any person to which an interest in MO-EBRA
9 property is sold, assigned, transferred, or conveyed, other than as
10 security, and any successor to or subsequent assignee of such person;

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

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

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

16 **(6) "Financing costs", if approved by the commission in a**
17 **financing order, costs to issue, service, repay, or refinance MO-EBRA**
18 **bonds, whether incurred or paid upon issuance of the MO-EBRA bonds**
19 **or over the life of the MO-EBRA bonds, and includes:**

20 **(a) Principal, interest, and redemption premiums that are**
21 **payable on MO-EBRA bonds;**

22 **(b) Any payment required under an ancillary agreement and any**
23 **amount required to fund or replenish a reserve account or other**
24 **accounts established under the terms of any indenture, ancillary**
25 **agreement, or other financing document pertaining to MO-EBRA bonds;**

26 **(c) Any other demonstrable costs related to issuing, supporting,**
27 **repaying, refunding, and servicing MO-EBRA bonds including, but not**
28 **limited to, servicing fees, accounting and auditing fees, trustee fees,**
29 **legal fees, consulting fees, financial advisor fees, administrative fees,**
30 **placement and underwriting fees, capitalized interest, rating agency**
31 **fees, stock exchange listing and compliance fees, security registration**
32 **fees, filing fees, information technology programming costs, and any**
33 **other demonstrable costs necessary to otherwise ensure and guarantee**
34 **the timely payment of MO-EBRA bonds or other amounts or charges**
35 **payable in connection with MO-EBRA bonds;**

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

38 **(e) Any state and local taxes including franchise, sales and use,**
39 **and other taxes or similar charges including, but not limited to,**
40 **regulatory assessment fees, whether paid, payable, or accrued; and**

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

46 **(7) "Financing order", an order of the commission that approves,**
47 **in whole or in part, an application filed under section 386.915 and that**
48 **authorizes the issuance of MO-EBRA bonds in one or more series; the**
49 **imposition, charging, and collection of MO-EBRA charges; and the**
50 **creation of MO-EBRA property. In a financing order, the commission**
51 **may include any conditions that are necessary to promote the public**
52 **interest and may grant relief that is different from that which was**

53 requested in the application so long as the relief is within the scope of
54 the matters addressed in the commission's notice of the application;

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

58 (9) "Least-cost generation resource", an incremental supply-side
59 or demand-side resource that, when included in an electrical
60 corporation's generation portfolio, produces the lowest cost among
61 alternative resources, considering both short-term and long-term costs
62 and assessing the likelihood of changes in future fuel prices and future
63 environmental requirements, among other considerations;

64 (10) "Lowest cost objective", the structuring, marketing, and
65 pricing of MO-EBRA bonds that results in the lowest MO-EBRA charges
66 consistent with prevailing market conditions on or about the time of
67 pricing MO-EBRA bonds, and the structure and terms of MO-EBRA
68 bonds approved under the financial order;

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

70 (12) "MO-EBRA bonds", low-cost corporate securities, such as
71 senior secured bonds, debentures, notes, certificates of participation,
72 certificates of beneficial interest, certificates of ownership, or other
73 evidences of indebtedness or ownership that have a scheduled maturity
74 of no longer than thirty years and a final legal maturity date that is no
75 later than thirty-two years from the issue date, that are rated AA or
76 AA2 or better by a major independent credit rating agency at the time
77 of issuance, and that are issued by an electrical corporation or an
78 assignee under a financing order, the proceeds of which are used to
79 recover, finance, or refinance commission-approved MO-EBRA costs
80 and financing costs, including assistance to affected workers and
81 communities, and that are secured by or payable from MO-EBRA
82 property. If certificates of participation or ownership are issued,
83 references in sections 386.900 to 386.980 to "principal", "interest", or
84 "premium" refer to comparable amounts under such certificates;

85 (13) "MO-EBRA charges", charges in amounts determined
86 appropriate by the commission and authorized by the commission in a
87 financing order to provide a source of revenue solely to repay, finance,
88 or refinance MO-EBRA costs and financing costs that are imposed on,
89 and are a part of, all customer bills and are collected in full by the

90 electrical corporation to which the financing order applies, by the
91 electrical corporation's successors or assignees, or by a collection agent
92 through a non-bypassable charge that is separate and apart from the
93 electrical corporation's base rates;

94 (14) "MO-EBRA costs":

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

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

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

104 (d) Do not include any monetary penalty, fine, or forfeiture
105 assessed against an electrical corporation by a government agency or
106 court under a federal or state environmental statute, rule, or
107 regulation;

108 (15) "MO-EBRA property":

109 (a) All rights and interests of an electrical corporation, or
110 successor or assignee of an electrical corporation, under a financing
111 order for the right to impose, bill, collect, and receive MO-EBRA
112 charges as it is authorized to do so solely under the financing order,
113 and to obtain periodic adjustments to such MO-EBRA charges as
114 provided in the financing order; and

115 (b) All revenue, collections, claims, rights to payment, payments,
116 moneys, or proceeds arising from the rights and interests, regardless
117 of whether such revenue, collections, claims, rights to payment,
118 payments, moneys, or proceeds are imposed, billed, received, collected,
119 or maintained together with or commingled with other revenue,
120 collections, rights to payment, payments, moneys, or proceeds;

121 (16) "MO-EBRA revenue", all revenue, receipts, collections,
122 payments, moneys, claims, or other proceeds arising from MO-EBRA
123 property;

124 (17) "Non-bypassable", the payment of MO-EBRA charges required
125 to repay bonds and related costs that shall not be avoided by any
126 existing or future customer located within an electrical corporation's

127 **certificated service territory, but shall be paid by:**

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

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

138 **(18) "Pretax costs", include, but are not limited to, the**
139 **unrecovered capitalized cost of a retired electric generating facility,**
140 **costs of de-commissioning and restoring the site of the electric**
141 **generating facility, and other applicable capital and operating costs,**
142 **accrued carrying charges, deferred expenses, reductions for applicable**
143 **insurance and salvage proceeds, and the costs of retiring any existing**
144 **indebtedness, fees, costs, and expenses to modify existing debt**
145 **agreements or for waivers or consents related to existing debt**
146 **agreements. Pretax costs include only those costs and expenses**
147 **approved by the commission;**

148 **(19) "Successor", with respect to any legal entity, another legal**
149 **entity that succeeds by operation of law to the rights and obligations**
150 **of the first legal entity under any bankruptcy, reorganization,**
151 **restructuring, other insolvency proceeding, merger, acquisition,**
152 **consolidation, or sale or transfer of assets, whether any of these occur**
153 **due to a restructuring of the electric power industry or otherwise.**

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

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

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

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

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

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

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

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

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

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

9 (a) Are just and reasonable;

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

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

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

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

18 (b) Achieve the maximum net present value customer savings

19 over the specified amortization of MO-EBRA bonds, as determined by
20 the commission in a financing order, consistent with market conditions
21 at the time of sale and the terms of the financing order.

22 **2. The financing order shall:**

23 **(1) Determine the maximum amount of MO-EBRA costs that may**
24 **be financed from proceeds of MO-EBRA bonds authorized to be issued**
25 **by the financing order;**

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

33 **(3) Describe the proposed customer billing mechanism for MO-**
34 **EBRA charges and include a finding that the mechanism is just and**
35 **reasonable;**

36 **(4) Describe the financing costs that may be recovered through**
37 **MO-EBRA charges and the period over which the costs may be**
38 **recovered, which shall end no earlier than the date of final legal**
39 **maturity of the MO-EBRA bonds;**

40 **(5) Describe the MO-EBRA property that is created and that may**
41 **be used to pay, and secure the payment of, the MO-EBRA bonds and**
42 **financing costs authorized in the financing order;**

43 **(6) Authorize the electrical corporation to finance MO-EBRA**
44 **costs through the issuance of one or more series of MO-EBRA bonds,**
45 **provided that an electrical corporation shall not be required to secure**
46 **a separate financing order for each issuance of MO-EBRA bonds or for**
47 **each scheduled phase of the previously approved retirement of electric**
48 **generating facilities approved in the financing order;**

49 **(7) Include a mechanism for making expeditious periodic**
50 **adjustments in the MO-EBRA charges that customers are required to**
51 **pay under the financing order and for making any adjustments that are**
52 **necessary to correct for any over- or under-collection of the MO-EBRA**
53 **charges in past periods, or otherwise to guarantee the timely payment**
54 **of MO-EBRA bonds and financing costs and other required amounts and**
55 **charges payable in connection with MO-EBRA bonds;**

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

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

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

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

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

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

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

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

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

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

91 4. A financing order shall require the electrical corporation,
92 simultaneously with the imposition of MO-EBRA charges, to reduce its

93 rates through a reduction in base rates or by a negative rider on
94 customer bills in an amount equal to the revenue requirement
95 associated with the electrical corporation's assets being financed by
96 MO-EBRA bonds.

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

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

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

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

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

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

10 (2) Consider the MO-EBRA charges paid under the financing

11 order to be revenue of the electrical corporation;

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

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

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

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

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

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

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

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

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

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

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

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

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

22 **2. Within one hundred twenty days after the issuance of MO-**
23 **EBRA bonds, the applicant electrical corporation shall file with the**
24 **commission information regarding the actual up-front and ongoing**
25 **financing costs of the MO-EBRA bonds. The commission shall review**
26 **the prudence of the electrical corporation's action to determine**
27 **whether the financing costs resulted in the lowest overall costs that**
28 **were reasonably consistent with both market conditions at the time of**
29 **the sale of the MO-EBRA bonds and the terms of the financing order. If**
30 **the commission determines that the electrical corporation's actions**
31 **were not prudent, were not designed to result in the lowest overall**
32 **costs that were reasonably consistent with both market conditions at**
33 **the time of the sale of the MO-EBRA bonds and the terms of the**
34 **financing order, or were inconsistent with the financing order, the**
35 **commission may apply any remedies that are available to it; except that**
36 **the commission shall not apply any remedy that has the effect, directly**
37 **or indirectly, of impairing the security for the MO-EBRA bonds.**

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

49 **4. If an electrical corporation's application for a financing order**
50 **is denied or withdrawn, or for any reason MO-EBRA bonds are not**
51 **issued, the commission's costs of retaining expert consultants and**

52 counsel, as authorized by subsection 3 of this section, shall be paid by
53 the electrical corporation and shall be considered by the commission
54 as a prudent deferred expense for recovery in the electrical
55 corporation's future rates.

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

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

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

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

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

25 2. An electrical corporation that has obtained a financing order
26 and caused MO-EBRA bonds to be issued shall demonstrate in an
27 annual filing with the commission that MO-EBRA revenues have been

28 applied solely to the repayment of MO-EBRA bonds and other financing
29 costs.

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

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

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

30 4. If an electrical corporation defaults on any required
31 remittance of charges arising from MO-EBRA property described in a
32 financing order, a court, upon application by an interested party and
33 without limiting any other remedies available to the applying party,
34 shall order the sequestration and payment of the revenues arising from
35 the MO-EBRA property to the financing parties. Any financing order

36 shall remain in full force and effect notwithstanding any
37 reorganization, bankruptcy, or other insolvency proceedings with
38 respect to the electrical corporation or its successors or assignees.

39 5. The interest of a transferee, purchaser, acquirer, assignee, or
40 pledgee in MO-EBRA property specified in a financing order issued to
41 an electrical corporation, and in the revenue and collections arising
42 from that property, is not subject to setoff, counterclaim, surcharge, or
43 defense by the electrical corporation or any other person or in
44 connection with the reorganization, bankruptcy, or other insolvency of
45 the electrical corporation or any other entity.

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

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

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

16 directly, indirectly, or contingently obligate the state, or a political
17 subdivision of the state, to levy any tax or make any appropriation for
18 payment of principal or interest on the MO-EBRA bonds.

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

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

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

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

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

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

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

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

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

18 (2) An order approving the issuance of MO-EBRA bonds to refund

19 all or a portion of an outstanding series of MO-EBRA bonds.

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

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

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

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

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

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

15 (3) Once a security interest in MO-EBRA property is created
16 under subdivision (2) of this subsection, the security interest attaches
17 without any physical delivery of collateral or any other act. The lien
18 of the security interest is valid, binding, and perfected against all
19 parties having claims of any kind in tort, contract, or otherwise against
20 the person granting the security interest, regardless of whether such
21 parties have notice of the lien, but only upon the filing of a financing
22 statement with the commission. The commission shall maintain a
23 financing statement filed under this subdivision;

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

29 (5) An electrical corporation shall separate MO-EBRA property
30 or revenue from other incoming moneys as soon as practicable. The
31 electrical corporation shall avoid commingling of MO-EBRA and non-
32 MO-EBRA moneys if possible. The priority of a security interest in MO-
33 EBRA property shall not be affected by the commingling of MO-EBRA
34 property or MO-EBRA revenue with other moneys. An assignee,
35 bondholder, or financing party shall have a perfected security interest
36 in the amount of all MO-EBRA property or MO-EBRA revenue that is

37 pledged for the payment of MO-EBRA bonds, even if the MO-EBRA
38 property or MO-EBRA revenue is deposited in a cash or deposit account
39 of the electrical corporation in which the MO-EBRA revenue is
40 commingled with other moneys, and any other security interest that
41 applies to the other moneys does not apply to the MO-EBRA revenue;
42 and

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

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

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

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

12 (3) Value has been received.

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

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

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

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

28 imposed on the collection of MO-EBRA revenue;

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

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

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

35 (6) Any subsequent financing order amending a financing order;
36 or

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

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

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

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

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

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

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

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

26 2. In considering any application for approval of the use of MO-

27 EBRA bond proceeds under subsection 1 of this section, the commission
28 shall use its regular process for consideration of applications.

386.985. The commission shall have the authority to promulgate
2 rules to implement the provisions of sections 386.900 to 386.980. Any
3 rule or portion of a rule, as that term is defined in section 536.010, that
4 is created under the authority delegated in this section shall become
5 effective only if it complies with and is subject to all of the provisions
6 of chapter 536 and, if applicable, section 536.028. This section and
7 chapter 536 are nonseverable and if any of the powers vested with the
8 general assembly pursuant to chapter 536 to review, to delay the
9 effective date, or to disapprove and annul a rule are subsequently held
10 unconstitutional, then the grant of rulemaking authority and any rule
11 proposed or adopted after August 28, 2020, shall be invalid and void.

✓

Bill

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