

SECOND REGULAR SESSION

# SENATE BILL NO. 968

99TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR WIELAND.

Read 1st time January 29, 2018, and ordered printed.

ADRIANE D. CROUSE, Secretary.

5979S.011

## AN ACT

To amend chapter 386, RSMo, by adding thereto eighteen 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 eighteen  
2 new sections, to be known as sections 386.900, 386.905, 386.910, 386.915,  
3 386.920, 386.925, 386.930, 386.935, 386.940, 386.945, 386.950, 386.955, 386.960,  
4 386.965, 386.970, 386.975, 386.980, and 386.985, to read as follows:

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

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

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

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

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

12 (4) Alternative financing mechanisms exist, used by twenty-one  
13 other states, that could result in lower costs for Missouri electricity  
14 consumers, and the use of such mechanisms can ensure that the costs  
15 of retiring electric generating facilities located in the state and the  
16 impact of such retirements on costs directly affected Missouri  
17 communities and electric generating facility workers can be financed

18 in a way that reduces the total costs of electricity generation;

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

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

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

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

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

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

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

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

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

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

54 (2) It is therefore in the interest of the state and its citizens to

55 encourage and facilitate the use of securitized ratepayer-backed bonds  
56 as a method for enabling electrical corporations to lower the cost of  
57 financing, and to empower the commission to review securitization  
58 mechanisms to determine whether they are consistent with the public  
59 interest.

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

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

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

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

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

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

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

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

27 (c) Any other demonstrable costs related to issuing, supporting,  
28 repaying, refunding, and servicing MO-EBRA bonds, including, but not  
29 limited to, servicing fees, accounting and auditing fees, trustee fees,  
30 legal fees, consulting fees, financial advisor fees, administrative fees,  
31 placement and underwriting fees, capitalized interest, rating agency  
32 fees, stock exchange listing and compliance fees, security registration

33 fees, filing fees, information technology programming costs, and any  
34 other demonstrable costs necessary to otherwise ensure and guarantee  
35 the timely payment of MO-EBRA bonds or other amounts or charges  
36 payable in connection with MO-EBRA bonds;

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

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

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

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

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

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

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

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

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

86 (12) "MO-EBRA charges", charges in amounts determined  
87 appropriate by the commission and authorized by the commission in a  
88 financing order in order to provide a source of revenue solely to repay,  
89 finance, or refinance MO-EBRA costs and financing costs that are  
90 imposed on, and are a part of, all customer bills and are collected in  
91 full by the electrical corporation to which the financing order applies,  
92 by the electrical corporation's successors or assignees, or a collection  
93 agent through a non-bypassable charge that is separate and apart from  
94 the electrical corporation's base rates;

95 (13) "MO-EBRA costs":

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

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

103 (c) The pretax costs that the electrical corporation has incurred  
104 or will incur in constructing or acquiring renewable facilities and  
105 services including least-cost generation resources and other supply-side  
106 and demand-side resources;

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

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

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

114           **(a) All rights and interests of an electrical corporation, or**  
115 **successor or assignee of an electrical corporation, under a financing**  
116 **order for the right to impose, bill, collect, and receive MO-EBRA**  
117 **charges as it is authorized to do solely under the financing order, and**  
118 **to obtain periodic adjustments to such MO-EBRA charges as provided**  
119 **in the financing order; and**

120           **(b) All revenue, collections, claims, rights to payments, payments,**  
121 **money, or proceeds arising from the rights and interests, regardless of**  
122 **whether such revenue, collections, claims, rights to payment, payments,**  
123 **money, or proceeds are imposed, billed, received, collected, or**  
124 **maintained together with or commingled with other revenue,**  
125 **collections, rights to payment, payments, money, or proceeds;**

126           **(15) "MO-EBRA revenue", all revenue, receipts, collections,**  
127 **payments, money, claims, or other proceeds arising from MO-EBRA**  
128 **property;**

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

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

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

143           **(17) "Pretax costs", include, but are not limited to, the**

144 unrecovered capitalized cost of a retired electric generating facility,  
145 costs of de-commissioning and restoring the site of the electric  
146 generating facility, and other applicable capital and operating costs,  
147 accrued carrying charges, deferred expenses, reductions for applicable  
148 insurance and salvage proceeds and the costs of retiring any existing  
149 indebtedness, fees, costs, and expenses to modify existing debt  
150 agreements or for waivers or consents related to existing debt  
151 agreements. Pretax costs include only those costs and expenses  
152 approved by the commission;

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

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

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

167 (b) Financial assistance for directly displaced electric generating  
168 facility workers;

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

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

386.915. 1. An electrical corporation may apply to the  
2 commission for a financing order, as such order is defined under

3 section 386.910 and described under sections 386.920 and 386.925. In  
4 such application, an electrical corporation may file an application for  
5 approval to issue MO-EBRA bonds in one or more series, impose,  
6 charge, and collect MO-EBRA charges, and create MO-EBRA property  
7 related to the retirement of an electric generating facility in Missouri  
8 that has previously been approved by the commission or for any other  
9 purpose described in subdivision (6) of subsection 1 of section  
10 386.905. The commission shall take final action to approve, deny, or  
11 modify any application for a financing order as described in subsection  
12 2 of this section in a final order issued in accordance with the  
13 commission's rules for addressing applications.

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

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

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

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

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

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

386.920. 1. Following notice and hearing on an application for  
2 a financing order as required by the commission's rules, practice, and  
3 procedure, 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 of the MO-EBRA costs described in the financing order  
13 application;

14 (3) The proposed structuring, marketing, and pricing of the MO-  
15 EBRA bonds is 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 for use in providing transition assistance  
32 and any reasonable 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 to the financing order and for making any adjustments that  
52 are necessary to correct for any over- or under- collection of the MO-  
53 EBRA charges in past periods, or otherwise to guarantee the timely  
54 payment of MO-EBRA bonds and financing costs and other required  
55 amounts and 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 de-commissioning 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 issues a financing order to an electrical  
3 corporation, the commission shall not, in exercising its powers and  
4 carrying out its duties:

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 has the duty and authority to  
6 oversee the process used to structure, market, and price MO-EBRA  
7 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 workers and  
12 communities;

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

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

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

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

39 3. In performing its responsibilities under this section, the  
40 commission shall engage outside financial advisors and other

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

51 4. If an electrical corporation's application for a financing order  
52 is denied or withdrawn, or for any reason MO-EBRA bonds are not  
53 issued, the commission's costs of retaining expert consultants and  
54 counsel, as authorized by subsection 4 of this section, shall be paid by  
55 the electrical corporation and shall be considered by the commission  
56 as a prudent deferred expense for recovery in the electrical  
57 corporation's future rates.

386.940. A financing order is a final order of the  
2 commission. Notwithstanding the provisions any other section  
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. In the case of any petition for  
7 suspension and review, the court shall proceed to hear and determine  
8 the action as expeditiously as practicable and shall give the action  
9 precedence over other matters not accorded similar precedence by law.

386.945. 1. The electric bills of customers of an electrical  
2 corporation that has obtained a financing order and caused MO-EBRA  
3 bonds to be issued 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 electric utility and, if the MO-EBRA property has been transferred  
7 to an assignee or successor, shall include a statement that the assignee  
8 or successor is the owner of the rights to MO-EBRA charges and that  
9 the electrical corporation or other entity, if applicable, is acting as a  
10 collection agent or servicer for the assignee or successor;

11 (2) Include the MO-EBRA charges on each customer's bill as a

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

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

27 2. An electrical corporation that has obtained a financing order  
28 and caused MO-EBRA bonds to be issued shall demonstrate in an  
29 annual filing with the commission that MO-EBRA revenues have been  
30 applied solely to the repayment of MO-EBRA bonds and other financing  
31 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 such financing  
36 order remains 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 them  
56 the 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 money  
4 within their control in MO-EBRA bonds. Political subdivisions may  
5 invest public funds in MO-EBRA bonds.

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

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

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

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

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 MO-  
2 EBRA property to secure the repayment of the principal and interest  
3 on MO-EBRA bonds, amounts payable under any ancillary agreement,  
4 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 paragraph (a) of subdivision (2) of this section, the security  
17 interest attaches without any physical delivery of collateral or any  
18 other act. The lien of the security interest is valid, binding, and  
19 perfected against all parties having claims of any kind in tort, contract  
20 or otherwise against the person granting the security interest,  
21 regardless of whether such parties have notice of the lien, upon the  
22 filing of a financing statement with the secretary of state. The  
23 secretary of state shall maintain a financing statement filed under this

24 subdivision;

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

30 (5) The priority of a security interest in MO-EBRA property shall  
31 not be affected by the commingling of MO-EBRA property or MO-EBRA  
32 revenue with other money. An assignee, bondholder, or financing party  
33 shall have a perfected security interest in the amount of all MO-EBRA  
34 property or MO-EBRA revenue that is pledged for the payment of MO-  
35 EBRA bonds, even if the MO-EBRA property or MO-EBRA revenue is  
36 deposited in a cash or deposit account of the electrical corporation in  
37 which the MO-EBRA revenue is commingled with other money, and any  
38 other security interest that applies to the other money does not apply  
39 to the MO-EBRA revenue; and

40 (6) Neither a subsequent order of the commission amending a  
41 financing order, nor application of an adjustment mechanism, shall  
42 affect the validity, perfection, or priority of a security interest in or  
43 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 secretary of  
14 state, a transfer of an interest in MO-EBRA property is perfected  
15 against all third persons, including any judicial lien or other lien  
16 creditors or any claims of the seller or creditors of the seller, other  
17 than creditors holding a prior security interest, ownership interest, or

18 assignment in 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 money;

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 as required by  
2 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 that  
16 the electrical corporation is able to add to its generation portfolio;

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

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 may not be used for new transmission**  
23 **facilities.**

24           **2. In considering any application for approval of the use of MO-**  
25 **EBRA bond proceeds, the commission shall use its regular process for**  
26 **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, 2018, shall be invalid and void.**

✓

Copy