

HB 935 -- FINANCING FOR ELECTRICAL CORPORATIONS

SPONSOR: O'Donnell

This bill creates the Missouri Electricity Bill Reduction Assistance Act (MO-EBRA). Under the provisions of the bill electrical corporations may apply to the Public Service Commission for a financing order authorizing the issuance of bonds, and the collection of MO-EBRA charges on customer bills, separate from the electrical corporation's base rates. The Public Service Commission may issue a financing order, following notice and a hearing, if the commission finds that such order meets certain conditions. Simultaneously with the imposition of MO-EBRA charges, a financing order must require the electrical corporation to reduce its rates through a reduction in base rates or a negative rider on customer bills in an amount equal to the revenue requirement associated with the electrical corporation's assets being financed by MO-EBRA bonds.

Financing orders must remain in effect until the MO-EBRA bonds and associated financing costs have been paid in full, notwithstanding any bankruptcy, reorganization, or insolvency of an electrical corporation. The Public Service Commission may also commence a proceeding and issue a subsequent financing order that provides for the refinancing, retiring, or refunding of MO-EBRA bonds issued under the original financing order if the subsequent financing order meets all of the same criteria as the original financing order, and does not modify the covenants and terms of the MO-EBRA bonds to be refinanced, retired, or refunded.

In issuing a financing order, the Public Service Commission may not consider the MO-EBRA bonds to be debt of the electrical corporation, MO-EBRA charges to be revenue of the electrical corporation, MO-EBRA costs or financing costs to be the regulated costs or assets of the electrical corporation, or determine any prudent action taken by an electrical corporation that is consistent with the financing order to be unjust or unreasonable. These prohibitions must not affect the authority of the commission or apply or modify any billing mechanism designed to recover MO-EBRA charges, prevent the commission from investigating compliance with the financing order, or prevent the commission from imposing regulatory sanctions against an electrical corporation for failing to comply with the terms of a financing order. Further, the commission may not refuse to allow the recovery of costs associated with the retirement of electric generating facilities solely because such costs have been financed through a mechanism other than MO-EBRA bonds. The bill authorizes the Public Service Commission to have powers and duties in addition to those already specified under law.

Within 120 days after the issuance of MO-EBRA bonds, an electrical corporation must file with the Public Service Commission

information regarding the actual financing costs of the MO-EBRA bonds. The commission must review such costs for prudence. All Public Service Commission expenses incurred for advisors, counsel, experts, and staff for the implementation of this act must be included as part of the financing costs and included in MO-EBRA charges. If an electrical corporation's application for a financing order is denied or withdrawn, or for any reason MO-EBRA bonds are not issued, the Commission's costs must be paid by the electrical corporation and deferred for recovery in future rates. Further, a financing order is a final order of the Public Service Commission. Any party aggrieved by the issuance of such order may petition for suspension and review of the order only in the court of appeals with jurisdiction coextensive with the Public Service Commission's location. The court must hear and determine the action as expeditiously as practicable.

The electric bills of electrical corporation customers must explicitly reflect that a portion of the charges on the bill that represent MO-EBRA charges, and must be included as a separate line-item entitled "energy bill reduction assistance charge." In an annual filing, the electrical corporation must explain to customers the rate impact that financing of retired electric generating facilities, transition assistance to Missouri communities and workers, and capital investment in renewable facilities and services has had on customer rates. In the annual filing, the electrical corporation must also demonstrate that MO-EBRA revenues have been applied solely to the repayment of MO-EBRA bonds and other financing costs.

MO-EBRA property consists of all rights and interests of an electrical corporation to impose, bill, collect, and receive MO-EBRA charges. Property must constitute an existing present property interest even though the imposition of MO-EBRA charges depends on the electrical corporation collecting the charges. MO-EBRA property must exist until all MO-EBRA bonds are paid in full and financing costs have been recovered. MO-EBRA property may be transferred, sold, conveyed, or assigned to certain successors or assignees specified in the bill. If an electrical corporation defaults on any remittance of charges arising from MO-EBRA property, a court must order the sequestration and payment of the revenues arising from the MO-EBRA property to the financing parties. A successor to an electrical corporation must perform and satisfy all obligations of, and have the same duties and rights under a financing order as the electrical corporation to which the financing order applies.

Banks, trust companies, savings and loan associations, insurance companies, executors, administrators, guardians, trustees, and other fiduciaries, including political subdivisions, may invest in MO-EBRA bonds; however, MO-EBRA bonds must not be considered the debt of the state, any county, municipality, or political subdivision. The state, or any political subdivision, may not take

any action that impairs the value of MO-EBRA property or reduce or alter MO-EBRA charges until all MO-EBRA bonds and financing costs are paid in full. An assignee or financing party that is not regulated by the Public Service Commission may not become subject to commission regulation as a result of engaging in any transaction under this act.

If any provision of this act conflicts with any other existing provision of law, this act must govern. Further, if MO-EBRA bonds are issued, and any provision of this act is invalidated, any lawful action taken under this act must remain in full force and effect. Nothing in this act must preclude an electrical corporation, for which the Public Service Commission has issued a financing order, from applying to the commission for a subsequent financing order amending an existing order, or approving the issuance of MO-EBRA bonds to refund all or a portion of outstanding MO-EBRA bonds.

The bill also specifies requirements for any security interest in MO-EBRA property. A sale, assignment, or transfer of MO-EBRA property is an absolute transfer, and may be created only when certain actions occur, as specified in the bill. Upon the filing of a financing statement with the Secretary of State, a transfer of MO-EBRA property interest is perfected against all third persons. Such absolute transfer must not be affected by the commingling of MO-EBRA revenue with other money, the retention by the seller of a partial or residual interest in the MO-EBRA property, any indemnification rights made or provided by the seller, an obligation of the seller to collect MO-EBRA revenues, the treatment of the sale for tax or other purposes, any subsequent financing order, or application of an adjustment mechanism.

Electrical corporations may, with Public Service Commission approval, invest MO-EBRA bond proceeds to benefit ratepayer interests, as specified in this bill. In considering any application for approval for the use of MO-EBRA bond proceeds, the commission must use its regular process for consideration of applications.

This bill is the same as SB 289 (2019).