

FIRST REGULAR SESSION

[PERFECTED]

HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NO. 835

101ST GENERAL ASSEMBLY

1544H.04P

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 153.030, 153.034, 204.300, 204.569, 204.610, 386.370, 393.106, 393.135, 393.137, 393.170, 393.355, 393.358, 393.1073, 394.120, 400.9-109, and 523.262, RSMo, and to enact in lieu thereof twenty-six new sections relating to utilities.

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

Section A. Sections 153.030, 153.034, 204.300, 204.569, 204.610, 386.370, 393.106, 2 393.135, 393.137, 393.170, 393.355, 393.358, 393.1073, 394.120, 400.9-109, and 523.262, 3 RSMo, are repealed and twenty-six new sections enacted in lieu thereof, to be known as sections 4 137.123, 153.030, 153.034, 204.300, 204.569, 204.610, 386.370, 386.895, 393.106, 393.135, 5 393.137, 393.170, 393.355, 393.358, 393.1250, 393.1500, 393.1503, 393.1506, 393.1509, 6 393.1700, 393.1705, 393.1710, 393.1715, 394.120, 400.9-109, and 523.262, to read as follows:

137.123. 1. Beginning January 1, 2022, for purposes of assessing all real property, 2 excluding land, or tangible personal property associated with a project that uses wind 3 energy directly to generate electricity, forty percent of the original costs shall be used to 4 determine the true value in money of such property. Such value shall begin the year 5 immediately following the year of construction of the property. The original costs shall 6 reflect either:

7 (1) The actual and documented original property cost to the taxpayer, as shall be 8 provided by the taxpayer to the assessor; or

9 (2) In the absence of actual and documented original property cost to the taxpayer, 10 the estimated cost of the property by the assessor, using an authoritative cost guide.

11 2. Nothing in this section shall be construed to prohibit a project from engaging in 12 enhanced enterprise zone agreements under sections 135.950 to 135.973 or similar tax

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

13 **abatement agreements with state or local officials or to affect any existing enhanced**
14 **enterprise zone agreements.**

153.030. 1. All bridges over streams dividing this state from any other state owned,
2 used, leased or otherwise controlled by any person, corporation, railroad company or joint stock
3 company, and all bridges across or over navigable streams within this state, where the charge is
4 made for crossing the same, which are now constructed, which are in the course of construction,
5 or which shall hereafter be constructed, and all property, real and tangible personal, owned, used,
6 leased or otherwise controlled by telegraph, telephone, electric power and light companies,
7 electric transmission lines, pipeline companies and express companies shall be subject to
8 taxation for state, county, municipal and other local purposes to the same extent as the property
9 of private persons.

10 2. And taxes levied thereon shall be levied and collected in the manner as is now or may
11 hereafter be provided by law for the taxation of railroad property in this state, and county
12 commissions, county boards of equalization and the state tax commission are hereby required
13 to perform the same duties and are given the same powers, including punitive powers, in
14 assessing, equalizing and adjusting the taxes on the property set forth in this section as the county
15 commissions and boards of equalization and state tax commission have or may hereafter be
16 empowered with, in assessing, equalizing, and adjusting the taxes on railroad property; and an
17 authorized officer of any such bridge, telegraph, telephone, electric power and light companies,
18 electric transmission lines, pipeline companies, or express company or the owner of any such toll
19 bridge, is hereby required to render reports of the property of such bridge, telegraph, telephone,
20 electric power and light companies, electric transmission lines, pipeline companies, or express
21 companies in like manner as the authorized officer of the railroad company is now or may
22 hereafter be required to render for the taxation of railroad property.

23 3. On or before the fifteenth day of April in the year 1946 and each year thereafter an
24 authorized officer of each such company shall furnish the state tax commission and county clerks
25 a report, duly subscribed and sworn to by such authorized officer, which is like in nature and
26 purpose to the reports required of railroads under chapter 151 showing the full amount of all real
27 and tangible personal property owned, used, leased or otherwise controlled by each such
28 company on January first of the year in which the report is due.

29 4. If any telephone company assessed pursuant to chapter 153 has a microwave relay
30 station or stations in a county in which it has no wire mileage but has wire mileage in another
31 county, then, for purposes of apportioning the assessed value of the distributable property of such
32 companies, the straight line distance between such microwave relay stations shall constitute
33 miles of wire. In the event that any public utility company assessed pursuant to this chapter has
34 no distributable property which physically traverses the counties in which it operates, then the

35 assessed value of the distributable property of such company shall be apportioned to the physical
36 location of the distributable property.

37 5. (1) Notwithstanding any provision of law to the contrary, beginning January 1, 2019,
38 a telephone company shall make a one-time election within the tax year to be assessed:

39 (a) Using the methodology for property tax purposes as provided under this section; or

40 (b) Using the methodology for property tax purposes as provided under this section for
41 property consisting of land and buildings and be assessed for all other property exclusively using
42 the methodology utilized under section 137.122.

43

44 If a telephone company begins operations, including a merger of multiple telephone companies,
45 after August 28, 2018, it shall make its one-time election to be assessed using the methodology
46 for property tax purposes as described under paragraph (b) of subdivision (1) of this subsection
47 within the year in which the telephone company begins its operations. A telephone company that
48 fails to make a timely election shall be deemed to have elected to be assessed using the
49 methodology for property tax purposes as provided under subsections 1 to 4 of this section.

50 (2) The provisions of this subsection shall not be construed to change the original
51 assessment jurisdiction of the state tax commission.

52 (3) Nothing in subdivision (1) of this subsection shall be construed as applying to any
53 other utility.

54 (4) (a) The provisions of this subdivision shall ensure that school districts may avoid
55 any fiscal impact as a result of a telephone company being assessed under the provisions of
56 paragraph (b) of subdivision (1) of this subsection. If a school district's current operating levy
57 is below the greater of its most recent voter-approved tax rate or the most recent voter-approved
58 tax rate as adjusted under subdivision (2) of subsection 5 of section 137.073, it shall comply with
59 section 137.073.

60 (b) Beginning January 1, 2019, any school district currently operating at a tax rate equal
61 to the greater of the most recent voter-approved tax rate or the most recent voter-approved tax
62 rate as adjusted under subdivision (2) of subsection 5 of section 137.073 that receives less tax
63 revenue from a specific telephone company under this subsection, on or before January thirty-
64 first of the year following the tax year in which the school district received less revenue from a
65 specific telephone company, may by resolution of the school board impose a fee, as determined
66 under this subsection, in order to obtain such revenue. The resolution shall include all facts that
67 support the imposition of the fee. If the school district receives voter approval to raise its tax
68 rate, the district shall no longer impose the fee authorized in this paragraph.

69 (c) Any fee imposed under paragraph (b) of this subdivision shall be determined by
70 taking the difference between the tax revenue the telephone company paid in the tax year in

71 question and the tax revenue the telephone company would have paid in such year had it not
72 made an election under subdivision (1) of this subsection, which shall be calculated by taking
73 the telephone company valuations in the tax year in question, as determined by the state tax
74 commission under paragraph (d) of this subdivision, and applying such valuations to the
75 apportionment process in subsection 2 of section 151.150. The school district shall issue a
76 billing, as provided in this subdivision, to any such telephone company. A telephone company
77 shall have forty-five days after receipt of a billing to remit its payment of its portion of the fees
78 to the school district. Notwithstanding any other provision of law, the issuance or receipt of such
79 fee shall not be used:

80 a. In determining the amount of state aid that a school district receives under section
81 163.031;

82 b. In determining the amount that may be collected under a property tax levy by such
83 district; or

84 c. For any other purpose.

85

86 For the purposes of accounting, a telephone company that issues a payment to a school district
87 under this subsection shall treat such payment as a tax.

88 (d) When establishing the valuation of a telephone company assessed under paragraph
89 (b) of subdivision (1) of this subsection, the state tax commission shall also determine the
90 difference between the assessed value of a telephone company if:

91 a. Assessed under paragraph (b) of subdivision (1) of this subsection; and

92 b. Assessed exclusively under subsections 1 to 4 of this section.

93

94 The state tax commission shall then apportion such amount to each county and provide such
95 information to any school district making a request for such information.

96 (e) This subsection shall expire when no school district is eligible for a fee.

97 6. (1) If any public utility company assessed pursuant to this chapter has ownership of
98 any real or personal property associated with a project which uses wind energy directly to
99 generate electricity, such wind energy project property shall be valued and taxed by any local
100 authorities having jurisdiction under the provisions of chapter 137 and other relevant provisions
101 of the law.

102 (2) Notwithstanding any provision of law to the contrary, beginning January 1, 2020, for
103 any public utility company assessed pursuant to this chapter which has a wind energy project,
104 such wind energy project shall be assessed using the methodology for real and personal property
105 as provided in this subsection:

106 (a) Any wind energy property of such company shall be assessed upon the county
107 assessor's local tax rolls; **and**

108 (b) ~~Any property consisting of land and buildings related to the wind energy project shall~~
109 ~~be assessed under chapter 137; and~~

110 ~~——(c)]~~ All other ~~[business]~~ **real property, excluding land**, or personal property related to
111 the wind energy project shall be assessed using the methodology provided under section
112 ~~[137.122]~~ **137.123.**

113 **7. (1) If any public utility company assessed under this chapter has ownership of**
114 **any real or personal property associated with a generation project that was originally**
115 **constructed utilizing financing authorized under chapter 100 for construction, upon the**
116 **transfer of ownership of such property to the public utility, such property shall be valued**
117 **and taxed by any local authorities having jurisdiction under the provisions of chapter 137**
118 **and other relevant provisions of law.**

119 **(2) Notwithstanding any provision of law to the contrary, beginning January 1,**
120 **2022, for any public utility company assessed under this chapter that has ownership of any**
121 **real or personal property associated with a generation project that was originally**
122 **constructed utilizing financing authorized under chapter 100 for construction, such**
123 **property shall be assessed using the methodology for real and personal property as**
124 **provided in this subsection, upon transfer of ownership of such property to the public**
125 **utility:**

126 (a) Any property associated with a generation project that was originally
127 constructed utilizing financing authorized under chapter 100 for construction, such
128 property shall be assessed upon the county assessor's local tax rolls; the assessor shall rely
129 on the public utility's original depreciated cost of the generation portion of the property
130 at the time of transfer of ownership in the determination of the initial valuation of the
131 generation property;

132 (b) Any property consisting of land and buildings related to the generation
133 property associated with a generation project that was originally constructed utilizing
134 financing authorized under chapter 100 for construction shall be assessed under chapter
135 137; and

136 (c) All other business or personal property related to a generation project that was
137 originally constructed utilizing financing authorized under chapter 100 for construction
138 shall be assessed using the methodology provided under section 137.122.

153.034. 1. The term "distributable property" of an electric company shall include all
2 the real or tangible personal property which is used directly in the generation and distribution of
3 electric power, but not property used as a collateral facility nor property held for purposes other

4 than generation and distribution of electricity. Such distributable property includes, but is not
5 limited to:

- 6 (1) Boiler plant equipment, turbogenerator units and generators;
- 7 (2) Station equipment;
- 8 (3) Towers, fixtures, poles, conductors, conduit transformers, services and meters;
- 9 (4) Substation equipment and fences;
- 10 (5) Rights-of-way;
- 11 (6) Reactor, reactor plant equipment, and cooling towers;
- 12 (7) Communication equipment used for control of generation and distribution of power;
- 13 (8) Land associated with such distributable property.

14 2. The term "local property" of an electric company shall include all real and tangible
15 personal property owned, used, leased or otherwise controlled by the electric company not used
16 directly in the generation and distribution of power and not defined in subsection 1 of this section
17 as distributable property. Such local property includes, but is not limited to:

- 18 (1) Motor vehicles;
- 19 (2) Construction work in progress;
- 20 (3) Materials and supplies;
- 21 (4) Office furniture, office equipment, and office fixtures;
- 22 (5) Coal piles and nuclear fuel;
- 23 (6) Land held for future use;
- 24 (7) Workshops, warehouses, office buildings and generating plant structures;
- 25 (8) Communication equipment not used for control of generation and distribution of
26 power;
- 27 (9) Roads, railroads, and bridges;
- 28 (10) Reservoirs, dams, and waterways;
- 29 (11) Land associated with other locally assessed property and all generating plant land.

30 3. (1) Any real or tangible personal property associated with a project which uses wind
31 energy directly to generate electricity shall be valued and taxed by local authorities having
32 jurisdiction under the provisions of chapter 137 and any other relevant provisions of law. The
33 method of taxation prescribed in subsection 2 of section 153.030 and subsection 1 of this section
34 shall not apply to such property.

35 (2) The real or tangible personal property referenced in subdivision (1) of this subsection
36 shall include all equipment whose sole purpose is to support the integration of a wind generation
37 asset into an existing system. Examples of such property may include, but are not limited to,
38 wind chargers, windmills, wind turbines, wind towers, and associated electrical equipment such

39 as inverters, pad mount transformers, power lines, storage equipment directly associated with
40 wind generation assets, and substations.

41 **4. For any real or tangible personal property associated with a generation project**
42 **which was originally constructed utilizing financing authorized under chapter 100 for**
43 **construction, upon the transfer of ownership of such property to a public utility, such**
44 **property shall be valued and taxed by local authorities having jurisdiction under the**
45 **provisions of chapter 137 and any other relevant provisions of law. The method of taxation**
46 **prescribed in subsection 2 of section 153.030 and subsection 1 of this section shall not apply**
47 **to such property.**

204.300. 1. In all counties except counties of the first classification which have a charter
2 form of government and which contain all or any portion of a city with a population of three
3 hundred fifty thousand or more inhabitants, the governing body of the county, by resolution,
4 order, or ordinance, shall appoint five trustees, the majority of whom shall reside within the
5 boundaries of the district. In the event the district extends into any county bordering the county
6 in which the greater portion of the district lies, the presiding commissioner or other chief
7 executive officer of the adjoining county shall be an additional member of the appointed board
8 of trustees. **Subject to the provisions of sections 105.450 to 105.498**, the trustees may be paid
9 reasonable compensation by the district for their services **outside their duties as trustee** [;
10 ~~except that, any compensation schedule shall be approved by resolution of the board of trustees~~].
11 **Each trustee of the board may receive an attendance fee not to exceed one hundred dollars**
12 **for attending each regularly called board meeting, or special meeting, but shall not be paid**
13 **for attending more than two meetings in any calendar month, except that in a county of the**
14 **first classification, a trustee shall not be paid for attending more than four meetings in any**
15 **calendar month. However, no trustee shall be paid more than one attendance fee if such**
16 **trustee attends more than one board meeting in a calendar week. Each trustee of the board**
17 **shall be reimbursed for his or her actual expenditures in the performance of his or her**
18 **duties on behalf of the district.** The board of trustees shall be responsible for the control and
19 operation of the sewer district. The term of each board member shall be five years; except that,
20 members of the governing body of the county sitting upon the board shall not serve beyond the
21 expiration of their term as members of such governing body of the county. The first board of
22 trustees shall be appointed for terms ranging from one to five years so as to establish one vacancy
23 per year thereafter. If the governing body of the county with the right of appointment under this
24 section fails to appoint a trustee to fill a vacancy on the board within sixty days after receiving
25 written notice from the common sewer district of the existence of such vacancy, then the vacancy
26 may be filled by a majority of the remaining members then in office of the board of trustees of
27 such common sewer district. **Subject to the provisions of sections 105.450 to 105.498**, the

28 trustees may be paid reasonable compensation by the district for their services **outside their**
29 **duties as trustee.** [~~except that, any compensation schedule shall be approved by resolution,~~
30 ~~order, or ordinance of the governing body of the county. Any and all expenses incurred in the~~
31 ~~performance of their duties shall be reimbursed by the district.] **Each trustee of the board may**
32 **receive an attendance fee not to exceed one hundred dollars for attending each regularly**
33 **called board meeting, or special meeting, but shall not be paid for attending more than two**
34 **meetings in any calendar month, except that in a county of the first classification, a trustee**
35 **shall not be paid for attending more than four meetings in any calendar month. However,**
36 **no trustee shall be paid more than one attendance fee if such trustee attends more than one**
37 **board meeting in a calendar week. Each trustee of the board shall be reimbursed for his**
38 **or her actual expenditures in the performance of his or her duties on behalf of the district.**~~

39 The board of trustees shall have the power to employ and fix the compensation of such staff as
40 may be necessary to discharge the business and purposes of the district, including clerks,
41 attorneys, administrative assistants, and any other necessary personnel. The board of trustees
42 shall select a treasurer, who may be either a member of the board of trustees or another qualified
43 individual. The treasurer selected by the board shall give such bond as may be required by the
44 board of trustees. The board of trustees shall appoint the sewer engineer for the county in which
45 the greater part of the district lies as chief engineer for the district, and the sewer engineer shall
46 have the same powers, responsibilities and duties in regard to planning, construction and
47 maintenance of the sewers, and treatment facilities of the district as he now has by virtue of law
48 in regard to the sewer facilities within the county for which he is elected. If there is no sewer
49 engineer in the county in which the greater part of the district lies, the board of trustees may
50 employ a registered professional engineer as chief engineer for the district under such terms and
51 conditions as may be necessary to discharge the business and purposes of the district. The
52 provisions of this subsection shall not apply to any county of the first classification which has
53 a charter form of government and which contains all or any portion of a city with a population
54 of three hundred fifty thousand or more inhabitants.

55 2. In any county of the first classification which has a charter form of government and
56 which contains all or any portion of a city with a population of three hundred fifty thousand or
57 more inhabitants, and in any county of the first classification without a charter form of
58 government and which has a population of more than sixty-three thousand seven hundred but
59 less than seventy-five thousand, there shall be a ten-member board of trustees to consist of the
60 county executive, the mayors of the five cities constituting the largest users by flow during the
61 previous fiscal year, the mayors of three cities which are not among the five largest users and
62 who are members of the advisory board of the district established pursuant to section 204.310,
63 and one member of the county legislature to be appointed by the county executive, with the

64 concurrence of the county legislature. If the county executive does not appoint such members
65 of the county legislature to the board of trustees within sixty days, the county legislature shall
66 make the appointments. The advisory board members shall be appointed annually by the
67 advisory board. In the event the district extends into any county bordering the county in which
68 the greater portion of the district lies, the number of members on the board of trustees shall be
69 increased to a total of eleven and the presiding commissioner or county executive of the
70 adjoining county shall be an additional member of the board of trustees. ~~[The trustees shall~~
71 ~~receive no compensation for their services, but may be compensated for their reasonable~~
72 ~~expenses normally incurred in the performance of their duties.]~~ **Each trustee of the board may**
73 **receive an attendance fee not to exceed one hundred dollars for attending each regularly**
74 **called board meeting, or special meeting, but shall not be paid for attending more than two**
75 **meetings in any calendar month, except that in a county of the first classification, a trustee**
76 **shall not be paid for attending more than four meetings in any calendar month. However,**
77 **no trustee shall be paid more than one attendance fee if such trustee attends more than one**
78 **board meeting in a calendar week. Each trustee of the board shall be reimbursed for his**
79 **or her actual expenditures in the performance of his or her duties on behalf of the district.**
80 **Subject to the provisions of sections 105.454 to 105.498, the trustees may be paid**
81 **reasonable compensation by the district for their services outside their duties as trustees.**
82 The board of trustees may employ and fix the compensation of such staff as may be necessary
83 to discharge the business and purposes of the district, including clerks, attorneys, administrative
84 assistants, and any other necessary personnel. The board of trustees may employ and fix the
85 duties and compensation of an administrator for the district. The administrator shall be the chief
86 executive officer of the district subject to the supervision and direction of the board of trustees
87 and shall exercise the powers, responsibilities and duties heretofore exercised by the chief
88 engineer prior to September 28, 1983. The administrator of the district may, with the approval
89 of the board of trustees, retain consulting engineers for the district under such terms and
90 conditions as may be necessary to discharge the business and purposes of the district. The
91 provisions of this subsection shall only apply to counties of the first classification which have
92 a charter form of government and which contain all or any portion of a city with a population of
93 three hundred fifty thousand or more inhabitants.

204.569. When an unincorporated sewer subdistrict of a common sewer district has been
2 formed pursuant to sections 204.565 to 204.573, the board of trustees of the common sewer
3 district shall have the same powers with regard to the subdistrict as for the common sewer
4 district as a whole, plus the following additional powers:

5 (1) To enter into agreements to accept, take title to, or otherwise acquire, and to operate
6 such sewers, sewer systems, treatment and disposal facilities, and other property, both real and

7 personal, of the political subdivisions included in the subdistrict as the board determines to be
8 in the interest of the common sewer district to acquire or operate, according to such terms and
9 conditions as the board finds reasonable, provided that such authority shall be in addition to the
10 powers of the board of trustees pursuant to section 204.340;

11 (2) To provide for the construction, extension, improvement, and operation of such
12 sewers, sewer systems, and treatment and disposal facilities, as the board determines necessary
13 for the preservation of public health and maintenance of sanitary conditions in the subdistrict;

14 (3) For the purpose of meeting the costs of activities undertaken pursuant to the authority
15 granted in this section, to issue bonds in anticipation of revenues of the subdistrict in the same
16 manner as set out in sections 204.360 to 204.450, for other bonds of the common sewer district.
17 Issuance of such bonds for the subdistrict shall require the assent only of four-sevenths of the
18 voters of the subdistrict voting on the question~~[, and]~~ **except that, as an alternative to such a**
19 **vote, if the subdistrict is a part of a common sewer district located in whole or in part in**
20 **any county of the first classification without a charter form of government adjacent to a**
21 **county of the first classification with a charter form of government and a population of at**
22 **least six hundred thousand and not more than seven hundred fifty thousand, bonds may**
23 **be issued for such subdistrict if the question receives the written assent of three-quarters**
24 **of the customers of the subdistrict in a manner consistent with section 204.370, where**
25 **"customer", as used in this subdivision, means any political subdivision within the**
26 **subdistrict that has a service or user agreement with the common sewer district. The**
27 principal and interest of such bonds shall be payable only from the revenues of the subdistrict
28 and not from any revenues of the common sewer district as a whole;

29 (4) To charge the costs of the common sewer district for operation and maintenance
30 attributable to the subdistrict, plus a proportionate share of the common sewer district's costs of
31 administration to revenues of the subdistrict and to consider such costs in determining reasonable
32 charges to impose within the subdistrict under section 204.440;

33 (5) With prior concurrence of the subdistrict's advisory board, to provide for the
34 treatment and disposal of sewage from the subdistrict in or by means of facilities of the common
35 sewer district not located within the subdistrict, in which case the board of trustees shall also
36 have authority to charge a proportionate share of the costs of the common sewer district for
37 operation and maintenance to revenues of the subdistrict and to consider such costs in
38 determining reasonable charges to impose within the subdistrict under section 204.440.

204.610. 1. There shall be five trustees, appointed or elected as provided for in the
2 circuit court decree or amended decree of incorporation for a reorganized common sewer district,
3 who shall reside within the boundaries of the district. Each trustee shall be a voter of the district
4 and shall have resided in said district for twelve months immediately prior to the trustee's

5 election or appointment. A trustee shall be at least twenty-five years of age and shall not be
6 delinquent in the payment of taxes at the time of the trustee's election or appointment.
7 Regardless of whether or not the trustees are elected or appointed, in the event the district
8 extends into any county bordering the county in which the greater portion of the district lies, the
9 presiding commissioner or other chief executive officer of the adjoining county shall be an
10 additional member of the board of trustees, or the governing body of such bordering county may
11 appoint a citizen from such county to serve as an additional member of the board of trustees.
12 Said additional trustee shall meet the qualifications set forth in this section for a trustee.

13 2. ~~[The trustees shall receive no compensation for their services but may be compensated~~
14 ~~for reasonable expenses normally incurred in the performance of their duties.]~~ **Each trustee of**
15 **the board may receive an attendance fee not to exceed one hundred dollars for attending**
16 **each regularly called board meeting, or special meeting, but shall not be paid for attending**
17 **more than two meetings in any calendar month. However, no trustee shall be paid more**
18 **than one attendance fee if such trustee attends more than one board meeting in a calendar**
19 **week. Each trustee of the board shall be reimbursed for his or her actual expenditures in**
20 **the performance of his or her duties on behalf of the district. Subject to the provisions of**
21 **sections 105.454 to 105.498, the trustees may be paid reasonable compensation by the**
22 **district for their services outside their duties as trustees.** The board of trustees may employ
23 and fix the compensation of such staff as may be necessary to discharge the business and
24 purposes of the district, including clerks, attorneys, administrative assistants, and any other
25 necessary personnel. The board of trustees may employ and fix the duties and compensation of
26 an administrator for the district. The administrator shall be the chief executive officer of the
27 district subject to the supervision and direction of the board of trustees. The administrator of the
28 district may, with the approval of the board of trustees, retain consulting engineers for the district
29 under such terms and conditions as may be necessary to discharge the business and purposes of
30 the district.

31 3. Except as provided in subsection 1 of this section, the term of office of a trustee shall
32 be five years. The remaining trustees shall appoint a person qualified under this section to fill
33 any vacancy on the board. The initial trustees appointed by the circuit court shall serve until the
34 first Tuesday after the first Monday in June or until the first Tuesday after the first Monday in
35 April, depending upon the resolution of the trustees. In the event that the trustees are elected,
36 said elections shall be conducted by the appropriate election authority under chapter 115.
37 Otherwise, trustees shall be appointed by the county commission in accordance with the
38 qualifications set forth in subsection 1 of this section.

39 4. Notwithstanding any other provision of law, if there is only one candidate for the post
40 of trustee, then no election shall be held, and the candidate shall assume the responsibilities of

41 office at the same time and in the same manner as if elected. If there is no candidate for the post
42 of trustee, then no election shall be held for that post and it shall be considered vacant, to be
43 filled under the provisions of subsection 3 of this section.

386.370. 1. The commission shall, prior to the beginning of each fiscal year beginning
2 with the fiscal year commencing on July 1, 1947, make an estimate of the expenses to be
3 incurred by it during such fiscal year reasonably attributable to the regulation of public utilities
4 as provided in chapters 386, 392 and 393 and shall also separately estimate the amount of such
5 expenses directly attributable to such regulation of each of the following groups of public
6 utilities: Electrical corporations, gas corporations, water corporations, heating companies and
7 telephone corporations, telegraph corporations, sewer corporations, and any other public utility
8 as defined in section 386.020, as well as the amount of such expenses not directly attributable
9 to any such group. For purposes of this section, water corporations and sewer corporations will
10 be combined and considered one group of public utilities.

11 2. The commission shall allocate to each such group of public utilities the estimated
12 expenses directly attributable to the regulation of such group and an amount equal to such
13 proportion of the estimated expenses not directly attributable to any group as the gross intrastate
14 operating revenues of such group during the preceding calendar year bears to the total gross
15 intrastate operating revenues of all public utilities subject to the jurisdiction of the commission,
16 as aforesaid, during such calendar year. The commission shall then assess the amount so
17 allocated to each group of public utilities, subject to reduction as herein provided, to the public
18 utilities in such group in proportion to their respective gross intrastate operating revenues during
19 the preceding calendar year, except that the total amount so assessed to all such public utilities
20 shall not exceed ~~[one-fourth]~~ **thirty-eight hundredths** of one percent of the total gross intrastate
21 operating revenues of all utilities subject to the jurisdiction of the commission.

22 3. The commission shall render a statement of such assessment to each such public
23 utility on or before July first and the amount so assessed to each such public utility shall be paid
24 by it to the director of revenue in full on or before July fifteenth next following the rendition of
25 such statement, except that any such public utility may at its election pay such assessment in four
26 equal installments not later than the following dates next following the rendition of said
27 statement, to wit: July fifteenth, October fifteenth, January fifteenth and April fifteenth. The
28 director of revenue shall remit such payments to the state treasurer.

29 4. The state treasurer shall credit such payments to a special fund, which is hereby
30 created, to be known as "The Public Service Commission Fund", which fund, or its successor
31 fund created pursuant to section 33.571, shall be devoted solely to the payment of expenditures
32 actually incurred by the commission and attributable to the regulation of such public utilities
33 subject to the jurisdiction of the commission, as aforesaid. Any amount remaining in such

34 special fund or its successor fund at the end of any fiscal year shall not revert to the general
35 revenue fund, but shall be applicable by appropriation of the general assembly to the payment
36 of such expenditures of the commission in the succeeding fiscal year and shall be applied by the
37 commission to the reduction of the amount to be assessed to such public utilities in such
38 succeeding fiscal year, such reduction to be allocated to each group of public utilities in
39 proportion to the respective gross intrastate operating revenues of the respective groups during
40 the preceding calendar year.

41 5. In order to enable the commission to make the allocations and assessments herein
42 provided for, each public utility subject to the jurisdiction of the commission as aforesaid shall
43 file with the commission, within ten days after August 28, 1996, and thereafter on or before
44 March thirty-first of each year, a statement under oath showing its gross intrastate operating
45 revenues for the preceding calendar year, and if any public utility shall fail to file such statement
46 within the time aforesaid the commission shall estimate such revenue which estimate shall be
47 binding on such public utility for the purpose of this section.

386.895. 1. As used in this section the following terms shall mean:

- 2 (1) "Biogas", a mixture of carbon dioxide and hydrocarbons, primarily methane
3 gas, released from the biological decomposition of organic materials;
- 4 (2) "Biomass", has the meaning given the term "qualified biomass" in section
5 142.028;
- 6 (3) "Gas corporation", the same as defined in section 386.020;
- 7 (4) "Qualified investment", any capital investment in renewable natural gas
8 infrastructure incurred by a gas corporation for the purpose of providing natural gas
9 service under a renewable natural gas program;
- 10 (5) "Renewable energy sources", hydroelectric, geothermal, solar photovoltaic,
11 wind, tidal, wave, biomass, or biogas energy sources;
- 12 (6) "Renewable natural gas", any of the following products processed to meet
13 pipeline quality standards or transportation fuel grade requirements:
- 14 (a) Biogas that is upgraded to meet natural gas pipeline quality standards such that
15 it may blend with, or substitute for, geologic natural gas;
- 16 (b) Hydrogen gas; or
- 17 (c) Methane gas derived from any combination of:
- 18 a. Biogas;
- 19 b. Hydrogen gas or carbon oxides derived from
20 renewable energy sources; or
- 21 c. Waste carbon dioxide;

22 (7) "Renewable natural gas infrastructure", all equipment and facilities for the
23 production, processing, pipeline interconnection, and distribution of renewable natural gas
24 to be furnished to Missouri customers.

25 2. The commission shall adopt rules for gas corporations to offer a voluntary
26 renewable natural gas program. Rules adopted by the commission under this section shall
27 include:

28 (1) Rules for reporting requirements; and

29 (2) Rules for establishing a process for gas corporations to fully recover incurred
30 costs that are prudent, just, and reasonable associated with a renewable natural gas
31 program. Such recovery shall not be permitted until the project is operational.

32 3. A filing by a gas corporation pursuant to the renewable natural gas program
33 created in subsection 2 of this section shall include, but is not limited to:

34 (1) A proposal to procure a total volume of renewable natural gas over a specific
35 period; and

36 (2) Identification of the qualified investments that the gas corporation may make
37 in renewable natural gas infrastructure.

38 4. A gas corporation may from time to time revise the filing submitted to the
39 commission under this section.

40 5. Any costs incurred by a gas corporation for qualified investment that are
41 prudent, just and reasonable may be recovered by means of an automatic rate adjustment
42 clause.

43 6. When a gas corporation makes a qualified investment in the production of
44 renewable natural gas, the costs associated with such qualified investment shall include the
45 cost of capital established by the commission in the gas corporation's most recent general
46 rate case.

47 7. Rules adopted by the commission under this section shall not prohibit an affiliate
48 of a gas corporation from making a capital investment in a biogas production project if the
49 affiliate is not a public utility as defined in section 386.020.

50 8. The public service commission may promulgate rules to implement the provisions
51 of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that
52 is created under the authority delegated in this section shall become effective only if it
53 complies with and is subject to all of the provisions of chapter 536 and, if applicable,
54 section 536.028. This section and chapter 536 are nonseverable and if any of the powers
55 vested with the general assembly pursuant to chapter 536 to review, to delay the effective
56 date, or to disapprove and annul a rule are subsequently held unconstitutional, then the

57 **grant of rule making authority and any rule proposed or adopted after August 28, 2021,**
58 **shall be invalid and void.**

393.106. 1. As used in this section, the following terms mean:

2 (1) **"Auxiliary power", the energy used to operate equipment and other load that**
3 **is directly related to the production of energy by an independent power producer or**
4 **electrical corporation, obtained through generation at the site or through adjacent**
5 **transformation and transmission interconnect, but does not include energy used for space**
6 **heating, lighting, air conditioning, office needs of buildings, and other non-generating uses**
7 **at the generation site;**

8 (2) **"Independent power producer" or "IPP", an entity that is also considered a**
9 **non-utility power producer in the United States. IPPs are wholesale electricity producers**
10 **that operate within the franchised service territories of host utilities and are usually**
11 **authorized to sell at market-based rates. Unlike traditional electric utilities, IPPs do not**
12 **possess transmission facilities or sell electricity in the retail market;**

13 (3) "Permanent service", electrical service provided through facilities which have been
14 permanently installed on a structure and which are designed to provide electric service for the
15 structure's anticipated needs for the indefinite future, as contrasted with facilities installed
16 temporarily to provide electrical service during construction. Service provided temporarily shall
17 be at the risk of the electrical supplier and shall not be determinative of the rights of the provider
18 or recipient of permanent service;

19 [~~2~~] (4) "Structure" or "structures", an agricultural, residential, commercial, industrial
20 or other building or a mechanical installation, machinery or apparatus at which retail electric
21 energy is being delivered through a metering device which is located on or adjacent to the
22 structure and connected to the lines of an electrical supplier. Such terms shall include any
23 contiguous or adjacent additions to or expansions of a particular structure. Nothing in this
24 section shall be construed to confer any right on an electric supplier to serve new structures on
25 a particular tract of land because it was serving an existing structure on that tract.

26 2. Once an electrical corporation or joint municipal utility commission, or its predecessor
27 in interest, lawfully commences supplying retail electric energy to a structure through permanent
28 service facilities, it shall have the right to continue serving such structure, and other suppliers
29 of electrical energy shall not have the right to provide service to the structure except as might be
30 otherwise permitted in the context of municipal annexation, pursuant to section 386.800 and
31 section 394.080, or pursuant to a territorial agreement approved under section 394.312. The
32 public service commission, upon application made by an affected party, may order a change of
33 suppliers on the basis that it is in the public interest for a reason other than a rate differential.
34 The commission's jurisdiction under this section is limited to public interest determinations and

35 excludes questions as to the lawfulness of the provision of service, such questions being reserved
 36 to courts of competent jurisdiction. Except as provided in this section, nothing contained herein
 37 shall affect the rights, privileges or duties of existing corporations pursuant to this chapter.
 38 Nothing in this section shall be construed to make lawful any provision of service which was
 39 unlawful prior to July 11, 1991. Nothing in this section shall be construed to make unlawful the
 40 continued lawful provision of service to any structure which may have had a different supplier
 41 in the past, if such a change in supplier was lawful at the time it occurred. However, those
 42 customers who had cancelled service with their previous supplier or had requested cancellation
 43 by May 1, 1991, shall be eligible to change suppliers as per previous procedures. No customer
 44 shall be allowed to change electric suppliers by disconnecting service between May 1, 1991, and
 45 July 11, 1991.

46 **3. Notwithstanding the provisions of subsection 2 of this section or any other**
 47 **provision of chapters 386 or 394 to the contrary, auxiliary power may be purchased on a**
 48 **wholesale basis, under the applicable federal tariffs of a regional transmission organization**
 49 **instead of under retail service tariffs filed with the public service commission by an**
 50 **electrical corporation, for use at an electric generation facility located in any county of the**
 51 **first classification with more than ninety-two thousand but fewer than one hundred one**
 52 **thousand inhabitants which commenced commercial operations prior to August 28, 2021,**
 53 **and which is operated as an independent power producer.**

393.135. **Except as provided in section 393.1250,** any charge made or demanded by
 2 an electrical corporation for service, or in connection therewith, which is based on the costs of
 3 construction **work** in progress, **as that term is defined in section 393.1250,** upon any existing
 4 or new ~~[facility of the]~~ electrical corporation **facility,** or any other cost associated with owning,
 5 operating, maintaining, or financing any **such** property before it is fully operational and used for
 6 service~~], is unjust and unreasonable, and] is prohibited.~~

393.137. 1. ~~[This section applies to electrical corporations that do not have a general rate~~
 2 ~~proceeding pending before the commission as of the later of February 1, 2018, or June 1, 2018.~~
 3 ~~———2.]~~ For purposes of this section, the following terms shall mean:

- 4 (1) "Commission", the public service commission;
- 5 (2) **"Tax legislation", additions, deletions, or amendments to the Internal Revenue**
 6 **Code, Title 26 of the United States Code, to the Missouri income tax code, or regulations**
 7 **adopted under chapter 143;**
- 8 (3) ~~["Electrical corporation", the same as]~~ **"Utility", an electrical corporation, gas**
 9 **corporation, water corporation, or sewer corporation, as defined in section 386.020[~~but~~].**
 10 **"Utility"** shall not include an electrical corporation as described in subsection 2 of section
 11 393.110.

12 ~~[3. If the rates of any electrical corporation to which this section applies have not already~~
13 ~~been adjusted to reflect the effects of the federal 2017 Tax Cut and Jobs Act, Pub. L. No. 115-97,~~
14 ~~94 Stat. 2390, the commission shall have one-time authority that shall be exercised within ninety~~
15 ~~days of June 1, 2018, to adjust such electrical corporation's rates prospectively so that the income~~
16 ~~tax component of the revenue requirement used to set such an electrical corporation's rates is~~
17 ~~based upon the provisions of such federal act without considering any other factor as otherwise~~
18 ~~required by section 393.270. The commission shall also require electrical corporations to which~~
19 ~~this section applies, as provided for under subsection 1 of this section, to defer to a regulatory~~
20 ~~asset the financial impact of such federal act on the electrical corporation for the period of~~
21 ~~January 1, 2018, through the date the electrical corporation's rates are adjusted on a one-time~~
22 ~~basis as provided for in the immediately preceding sentence. The amounts deferred under this~~
23 ~~subsection shall be included in the revenue requirement used to set the electrical corporation's~~
24 ~~rates in its subsequent general rate proceeding through an amortization over a period determined~~
25 ~~by the commission.]~~

26 **2. If the United States Congress or general assembly enacts tax legislation that, had**
27 **it been effective when the utility's base rates were last set, would have resulted in a lower**
28 **income tax component of the revenue requirement used to last set such base rates, the**
29 **commission shall have the authority to, within one hundred eighty days of the enacted date**
30 **of the subject tax legislation, enter an order adjusting such utility's base rates prospectively**
31 **so that the income tax component of the revenue requirement used to set such utility's base**
32 **rates is based upon the provisions of such tax legislation without considering any other**
33 **factor as otherwise required by section 393.270. As part of its exercise of such authority,**
34 **the commission shall also require the utility to defer to a regulatory liability an amount**
35 **equal to the difference between what the income tax component of the revenue requirement**
36 **last used to set its base rates was under the law at that time and what the income tax**
37 **component of the revenue requirement would have been had such tax legislation been in**
38 **effect at that time. The deferral period shall commence with the date such tax legislation**
39 **would have resulted in a lower income tax component of such revenue requirement last**
40 **used to set the utility's base rates and continue through the date the utility's base rates are**
41 **next adjusted. The amounts deferred under this subsection shall be included in the**
42 **revenue requirement used to set the utility's base rates in its subsequent general rate**
43 **proceedings through amortization over a period of up to three years, as determined by the**
44 **commission.**

45 ~~[4.]~~ **3.** Upon good cause shown by ~~[the electrical corporation]~~ **a utility**, the commission
46 may, as an alternative to requiring a ~~[one-time]~~ rate change and deferral under subsection ~~[3]~~ **2**
47 of this section, allow a deferral **to a regulatory liability**, in whole or in part, of ~~[such federal~~

48 ~~act's financial impacts to a regulatory asset starting January 1, 2018,]~~ **the amounts that would**
49 **have been reflected in a base rate reduction under subsection 2 of this section. The**
50 **deferral period shall commence on the date such tax legislation would have resulted in a**
51 **lower income tax component and continue** through the effective date of new rates in such
52 ~~[electrical corporation's]~~ **utility's** next general rate proceeding. The deferred amounts shall be
53 included in the revenue requirement used to set the ~~[electrical corporation's]~~ **utility's** rates in its
54 subsequent general rate proceeding through an amortization over a period determined by the
55 commission.

56 **4. If the United States Congress or general assembly enacts tax legislation that, had**
57 **it been in effect when the utility's base rates were last set, would have resulted in a higher**
58 **income tax component of the revenue requirement used to last set such base rates, the**
59 **utility shall be entitled, by giving notice to the commission within one hundred eighty days**
60 **of the enacted date of such tax legislation, to defer to a regulatory asset an amount equal**
61 **to the difference between what the income tax component of the revenue requirement used**
62 **to last set its base rates was under the law at that time and what the income tax component**
63 **of the revenue requirement would have been had such tax legislation been in effect at that**
64 **time. The deferral period shall commence on the date such tax legislation would have**
65 **resulted in a higher income tax component of such revenue requirement last used to set the**
66 **utility's base rates and continue through the date the utility's base rates are next adjusted**
67 **as provided for in this subsection. The amounts deferred under this subsection shall be**
68 **included in the revenue requirement used to set the utility's rates in its subsequent general**
69 **rate proceedings through amortization over a period of up to three years, as determined**
70 **by the commission, without considering any other factor as otherwise required by section**
71 **393.270.**

72 **5. If the tax legislation that either reduces or increases the utility's income tax**
73 **component, under subsection 2 or 4 of this section, does so at a point in time other than**
74 **beginning with its effective date, or does so in multiple stages at different points in time,**
75 **the commission order in subsection 1 of this section and the utility's notice in subsection**
76 **4 of this section shall be deemed to apply to the first point in time when the income tax**
77 **component would have been changed and to subsequent changes in such income tax**
78 **component arising from such tax legislation without the necessity of the commission issuing**
79 **a subsequent order or the utility providing a subsequent notice, as the case may be. Each**
80 **such change shall require a separate base rate change, deferral, and amortization period,**
81 **as applicable.**

82 **6. If the United States Congress or general assembly has, prior to the effective date**
83 **of this section, enacted tax legislation that either reduces or increases the utility's income**

84 tax component the one-hundred-eighty-day period in subsection 2 and 4 of this section
85 shall commence on the effective date of this section.

86 7. Notwithstanding any other provision of this section to the contrary, the
87 commission's authority to adjust utility rates and require deferrals regarding reductions
88 in the income tax component of a utility's revenue requirement under subsections 2 and
89 3 of this section, and utility authority to defer and recover increases in the income tax
90 component under subsection 4 of this section, shall not exist unless the addition, deletion,
91 or amendment to tax legislation results in a difference in the income tax component of the
92 utility's revenue requirement, calculated in accordance with subsection 2 or 4 of this
93 section, as applicable, that is greater than an amount in excess of two-tenths of one percent
94 of such utility's operating revenues reported to the commission in such utility's annual
95 report for the calendar year preceding the calendar year in which such difference is
96 calculated.

393.170. 1. No gas corporation, electrical corporation, water corporation or sewer
2 corporation shall begin construction of a gas plant, electric plant, water system or sewer system,
3 other than an energy generation unit that has a capacity of one megawatt or less, without first
4 having obtained the permission and approval of the commission.

5 2. No such corporation shall exercise any right or privilege under any franchise hereafter
6 granted, or under any franchise heretofore granted but not heretofore actually exercised, or the
7 exercise of which shall have been suspended for more than one year, without first having
8 obtained the permission and approval of the commission. Before such certificate shall be issued
9 a certified copy of the charter of such corporation shall be filed in the office of the commission,
10 together with a verified statement of the president and secretary of the corporation, showing that
11 it has received the required consent of the proper municipal authorities.

12 3. (1) Before the commission shall issue an approval under subsection 1 of this
13 section for a merchant line, an entity shall provide the commission a resolution of support
14 passed by the county commission of each county through which the merchant line will be
15 built. Any entity that begins construction on a merchant line after August 28, 2021, shall
16 provide the required resolutions to the commission prior to construction, regardless of
17 whether the commission has previously issued its approval.

18 (2) For the purposes of this subsection, the following terms mean:

19 (a) "Entity", an electrical corporation that does not provide service to end-use
20 customers or provide retail service in Missouri or does not collect its costs to provide
21 service under a regional transmission organization tariff;

22 (b) "Merchant line", a high-voltage direct current electric transmission line that
23 does not provide for the erection of electric substations at intervals of less than fifty miles,

24 **which substations are necessary to accommodate both the purchase and sale to persons**
25 **located in this state of electricity generated or transmitted by such entity.**

26 4. The commission shall have the power to grant the permission and approval herein
27 specified whenever it shall after due hearing determine that such construction or such exercise
28 of the right, privilege or franchise is necessary or convenient for the public service. The
29 commission may by its order impose such condition or conditions as it may deem reasonable and
30 necessary. Unless exercised within a period of two years from the grant thereof, authority
31 conferred by such certificate of convenience and necessity issued by the commission shall be null
32 and void.

393.355. 1. As used in this section, the following terms shall mean:

2 (1) "Electrical corporation", the same meaning given to the term in section 386.020, but
3 shall not include an electrical corporation as described in subsection 2 of section 393.110;

4 (2) "Facility", a:

5 (a) Facility whose primary industry is the ~~[smelting]~~ **processing** of ~~[aluminum and]~~
6 ~~primary metals]~~, ~~Standard Industrial Classification Code 3334~~;

7 (b) Facility whose primary industry is the production or fabrication of steel, North
8 American Industrial Classification System 331110; or

9 (c) Facility with a new or incremental increase in load equal to or in excess of a monthly
10 demand of fifty megawatts.

11 2. Notwithstanding section 393.130 or any other provision of law to the contrary, the
12 public service commission shall have the authority to approve a special rate, outside a general
13 rate proceeding, that is not based on the electrical corporation's cost of service for a facility if:

14 (1) The commission determines, but for the authorization of the special rate the facility
15 would not commence operations, the special rate is in the interest of the state of Missouri when
16 considering the interests of the customers of the electrical corporation serving the facility,
17 considering the incremental cost of serving the facility to receive the special rate, and the
18 interests of the citizens of the state generally in promoting economic development, improving
19 the tax base, providing employment opportunities in the state, and promoting such other benefits
20 to the state as the commission may determine are created by approval of the special rate;

21 (2) After approval of the special rate, the commission allocates in each general rate
22 proceeding of the electrical corporation serving the facility the reduced revenues from the special
23 rate as compared to the revenues that would have been generated at the rate the facility would
24 have paid without the special rate to the electrical corporation's other customers through a
25 uniform percentage adjustment to all components of the base rates of all customer classes; and

26 (3) The commission approves a tracking mechanism meeting the requirements of
27 subsection 3 of this section.

28 3. Any commission order approving a special rate authorized by this section to provide
29 service to a facility in the manner specified under subsection 4 of this section shall establish, as
30 part of the commission's approval of a special rate, a tracking mechanism to track changes in the
31 net margin experienced by the electrical corporation serving the facility with the tracker to apply
32 retroactively to the date the electrical corporation's base rates were last set in its last general rate
33 proceeding concluded prior to June 14, 2017. The commission shall ensure that the changes in
34 net margin experienced by the electrical corporation between the general rate proceedings as a
35 result of serving the facility are calculated in such a manner that the electrical corporation's net
36 income is neither increased nor decreased. The changes in net margin shall be deferred to a
37 regulatory liability or regulatory asset, as applicable, with the balance of such regulatory asset
38 or liability to be included in the revenue requirement of the electrical corporation in each of its
39 general rate proceedings through an amortization of the balance over a reasonable period until
40 fully returned to or collected from the electrical corporation's customers.

41 4. Notwithstanding the provisions of section 393.170, an electrical corporation is
42 authorized to provide electric service to a facility at a special rate for the new or incremental load
43 authorized by the commission:

44 (1) Under a rate schedule reflecting the special rate approved by the commission; or

45 (2) If the facility is located outside the electrical corporation's certificated service
46 territory, the facility shall be treated as if it is in the electrical corporation's certified service
47 territory, subject to a commission-approved rate schedule incorporating the special rate under
48 the contract.

49 5. To receive a special rate, the electrical corporation serving the facility, or facility if
50 the facility is located outside of the electrical corporation's certified service territory, shall file
51 a written application with the commission specifying the requested special rate and any terms
52 or conditions proposed by the facility respecting the requested special rate and provide
53 information regarding how the requested special rate meets the criteria specified in subdivision
54 (1) of subsection 2 of this section. A special rate provided for by this section shall be effective
55 for no longer than ten years from the date such special rate is authorized. The commission may
56 impose such conditions, including but not limited to any conditions in a memorandum of
57 understanding between the facility and the electrical corporation, on the special rate as it deems
58 appropriate so long as it otherwise complies with the provisions of this section.

59 6. Any entity which has been granted a special rate under this section may reapply to the
60 commission for a special rate under this section.

393.358. 1. For purposes of this section, the following terms shall mean:

2 (1) "Commission", the Missouri public service commission established under section
3 386.040;

4 (2) "Water corporation", a corporation with more than one thousand Missouri customers
5 that otherwise meets the definition of "water corporation" in section 386.020.

6 2. Water corporations shall develop a qualification process open to all contractors
7 seeking to provide construction and construction-related services for planned infrastructure
8 projects on the water corporation's distribution system. The water corporation shall specify
9 qualification requirements and goals for contractors seeking to perform such work, including but
10 not limited to experience, performance criteria, safety record and policies, technical expertise,
11 scheduling needs and available resources, supplier diversity and insurance requirements.
12 Contractors that meet the qualification requirements shall be eligible to participate in a
13 competitive bidding process for providing construction and construction-related services for
14 planned infrastructure projects on the water corporation's distribution system, and the contractor
15 making the lowest and best bid shall be awarded such contract. For contractors not qualifying
16 through the competitive bid process, the water corporation, upon request from the contractor,
17 shall provide information from the process in which the contractor can be informed as to how
18 to be better positioned to qualify for such bid opportunities in the future. Nothing in this section
19 shall be construed as requiring any water corporation to use third parties instead of its own
20 employees to perform such work, to use the contractor qualification or competitive bidding
21 process in the case of an emergency project, or to terminate any existing contract with a
22 contractor prior to its expiration.

23 3. Within thirty days after August 28, 2018, and with the filing of a general rate
24 proceeding initiated by the water corporation, the water corporation shall file a statement with
25 the commission confirming it has established a qualification process meeting the requirements
26 of this section and that such process is used for no less than ~~ten~~ **twenty** percent of the
27 corporation's external expenditures for planned infrastructure projects on the water corporation's
28 distribution system. The commission shall have the authority to verify the statements to ensure
29 compliance with this section.

30 4. By December 31, 2020, the commission shall submit a report to the general assembly
31 on the effects of this section, including water corporation compliance, the costs of performing
32 planned infrastructure projects prior to the implementation of this section compared to after the
33 implementation of this section, and any other information regarding the process established
34 under this section that the commission deems necessary.

**393.1250. 1. This section shall be known and may be cited as the "Missouri Nuclear
2 Clean Power Act", the purpose of which is to enable the construction of clean baseload
3 electric generating plants or facilities that utilize renewable sources to produce energy.
4 This section shall not apply to clean baseload electric generating plants or renewable
5 source generating facilities that are in commercial operation before August 28, 2021.**

6 **2. As used in this section, the following terms mean:**

7 **(1) "Clean baseload generating plant", a new nuclear-fueled electric generating**
8 **facility located in this state that is designed to be operated at a capacity factor exceeding**
9 **seventy percent annually and is intended in whole or in part to serve retail customers of**
10 **an electrical corporation in Missouri;**

11 **(2) "Construction work in progress", the electrical corporation's share of all capital**
12 **costs associated with a clean baseload generating plant or renewable source generating**
13 **facility, which have been incurred but have not been included in the electrical**
14 **corporation's plant in service, and are recorded in the Federal Energy Regulatory**
15 **Commission's Uniform System of Accounts Prescribed for Public Utilities and Licensees**
16 **Subject to the Provisions of the Federal Power Act, Balance Sheet Chart Accounts, as**
17 **construction work in progress for electric plants in 18 CFR Part 101, or any other account**
18 **established in the Uniform System of Accounts for the recording of construction work in**
19 **progress;**

20 **(3) "Renewable source generating facility", any electric generating facility powered**
21 **by wind, hydropower, solar power, landfill methane, biomass, or any other renewable**
22 **source of power that does not produce significant carbon emissions.**

23 **3. The provisions of section 393.135 shall not apply to a clean baseload generating**
24 **plant or a renewable source generating facility if the plant or facility is rated at two**
25 **hundred megawatts or more. Costs recovered by an electrical corporation under the**
26 **provisions of this section are subject to inclusion or exclusion from rates in a ratemaking**
27 **proceeding pursuant to the commission's authority to determine just and reasonable rates.**
28 **In addition, the commission may authorize an electrical corporation to make or demand**
29 **charges for service based in whole or in part on additional amortizations to maintain the**
30 **electrical corporation's financial ratios that will, in the commission's judgment, better**
31 **enable the electrical corporation to cost-effectively construct a clean baseload generating**
32 **plant or a renewable source generating facility.**

33 **4. The commission may promulgate rules to assist in the implementation of this**
34 **section. Any rule or portion of a rule, as that term is defined in section 536.010, that is**
35 **created under the authority delegated in this section shall become effective only if it**
36 **complies with and is subject to all of the provisions of chapter 536 and, if applicable,**
37 **section 536.028. This section and chapter 536 are nonseverable, and if any of the powers**
38 **vested with the general assembly pursuant to chapter 536 to review, to delay the effective**
39 **date, or to disapprove and annul a rule are subsequently held unconstitutional, then the**
40 **grant of rulemaking authority and any rule proposed or adopted after August 28, 2021,**
41 **shall be invalid and void.**

1 **393.1500.** Sections 393.1500 to 393.1509 shall be known and may be cited as the
2 **"Missouri Water and Sewer Infrastructure Act"**.

393.1503. As used in sections 393.1500 to 393.1509, the following terms shall mean:

2 (1) **"Appropriate pretax revenues"**, the revenues necessary to produce net
3 **operating income equal to:**

4 (a) **The water or sewer corporation's pretax weighted cost of capital multiplied by**
5 **the net original cost of eligible infrastructure system projects, including recognition of**
6 **accumulated deferred income taxes and accumulated depreciation associated with eligible**
7 **infrastructure system projects which are included in the petition to establish or change a**
8 **WSIRA, plus accumulated deferred income taxes and accumulated depreciation associated**
9 **with any eligible infrastructure system projects in a currently effective WSIRA**
10 **implemented pursuant to sections 393.1506 and 393.1509;**

11 (b) **The state, federal, and local income or excise taxes applicable to such revenues;**

12 (c) **The depreciation expense applicable to the eligible infrastructure system project**
13 **less annual depreciation expense associated with any related facility retirements; and**

14 (d) **The property taxes applicable to the eligible infrastructure that will be due**
15 **within twelve months of the filing of a request to implement a water and sewer**
16 **infrastructure rate adjustment pursuant to sections 393.1506 and 393.1509 less any**
17 **property taxes associated with any related facility retirements;**

18 (2) **"Commission"**, the Missouri public service commission;

19 (3) **"Eligible infrastructure system projects"**, water or sewer utility plant projects
20 **that:**

21 (a) **Replace or extend the useful life of existing infrastructure;**

22 (b) **Are in service and used and useful;**

23 (c) **Do not include projects intended solely for customer growth; and**

24 (d) **The costs of which were not recovered in the water or sewer corporation's base**
25 **rates in its most recent general rate case;**

26 (4) **"Sewer corporation"**, the same as defined in section 386.020;

27 (5) **"Water and sewer infrastructure rate adjustment" or "WSIRA"**, a separate
28 **line item rate on a customer's water or sewer bill designed to recover the appropriate**
29 **pretax revenues associated with eligible infrastructure system projects implemented**
30 **pursuant to sections 393.1500 to 393.1509;**

31 (6) **"Water corporation"**, the same as defined in section 386.020;

32 (7) **"Water or sewer utility plant projects"**, shall consist of the following:

- 33 **(a) Replacement of or cleaning and relining of existing water and sewer pipes, and**
34 **associated valves, hydrants, meters, service lines, laterals, sewer taps, curbstops, and**
35 **manholes;**
- 36 **(b) Replacement of lead mains, lead goosenecks and lead service lines, and**
37 **associated valves and meters;**
- 38 **(c) Replacement of booster station and lift station pumps with equipment of similar**
39 **capacity and operation, as well as related pipes, valves, and meters;**
- 40 **(d) Facilities relocations required due to construction or improvement of a**
41 **highway, road, street, public way, or other public work by or on behalf of the United**
42 **States, this state, a political subdivision of this state, or another entity having the power of**
43 **eminent domain; provided that the costs related to such projects have not been reimbursed**
44 **to the water or sewer corporation; and**
- 45 **(e) Replacement of water and wastewater treatment mechanical equipment with**
46 **equipment of similar capacity and operation, including well and intake pumps, transfer**
47 **pumps, high service or discharge pumps, and metering pumps;**
- 48 **(f) Replacement of Supervisory Control and Data Acquisition System (SCADA)**
49 **components necessary for the operation and monitoring of remote installations including**
50 **radio and cellular communication equipment, and programmable logic controllers;**
- 51 **(8) "WSIRA revenues", revenues produced through implementation of a WSIRA**
52 **pursuant to sections 393.1500 to 393.1509, exclusive of revenues from all other rates and**
53 **charges.**

393.1506. 1. Notwithstanding any provisions of chapter 386 and this chapter to the
2 **contrary, a water or sewer corporation that provides water or sewer service to more than**
3 **eight thousand customer connections may file a petition and proposed rate schedules with**
4 **the commission to establish or change a WSIRA that will provide for the recovery of the**
5 **appropriate pretax revenues associated with the eligible infrastructure system projects, less**
6 **the appropriate pretax revenues associated with any retired utility plant that is being**
7 **replaced by the eligible infrastructure system projects. The WSIRA shall not produce**
8 **revenues in excess of fifteen percent of the water or sewer corporation's base revenue**
9 **requirement approved by the commission in the water or sewer corporation's most recent**
10 **general rate proceeding; provided, however, that neither WSIRA revenues attributable to**
11 **replacement of customer-owned lead service lines, nor any reconciliation amounts**
12 **described in subdivision (2) of subsection 5 of section 393.1509, shall count toward the**
13 **program cap. The WSIRA and any future changes thereto shall be calculated and**
14 **implemented in accordance with the provisions of sections 393.1503 to 393.1509. WSIRA**

15 revenues shall be subject to refund based upon a finding and order of the commission, to
16 the extent provided in subsections 5 and 8 of section 393.1509.

17 2. The commission shall not approve a WSIRA for a water or sewer corporation
18 that has not had a general rate proceeding decided or dismissed by issuance of a
19 commission order within the past three years of the filing of a petition pursuant to this
20 section, unless the water or sewer corporation has filed for or is the subject of a new
21 general rate proceeding.

22 3. In no event shall a water or sewer corporation collect a WSIRA for a period
23 exceeding three years unless the water or sewer corporation has filed for or is the subject
24 of a pending general rate proceeding; provided that the WSIRA may be collected until the
25 effective date of new rate schedules established as a result of the new general rate
26 proceeding, or until the subject general rate proceeding is otherwise decided or dismissed
27 by issuance of a commission order without new rates being established.

28 4. Except as provided in this subsection, in no event shall a water or sewer
29 corporation collect a WSIRA if also collecting revenues from a commission-approved
30 infrastructure system replacement surcharge as defined in sections 393.1000 to 393.1006.
31 In no such event shall a customer be charged both an infrastructure system replacement
32 surcharge under sections 393.1000 to 393.1006 and a WSIRA. In the event a water
33 corporation is collecting ISRS revenues under sections 393.1000 to 393.1006, that was
34 approved prior to the effective date of this section when the initial WSIRA is filed, the
35 approved ISRS revenues shall be included in the new WSIRA filing.

393.1509. 1. (1) At the time that a water or sewer corporation files a petition with
2 the commission seeking to establish or change a WSIRA, it shall submit proposed WSIRA
3 rate schedules and supporting documentation regarding the calculation of the proposed
4 WSIRA with the petition and shall serve the office of the public counsel with a copy of its
5 petition, its proposed WSIRA rate schedules, and its supporting documentation.

6 (2) Upon the filing of a petition and any associated WSIRA rate schedules, seeking
7 to establish or change a WSIRA, the commission shall publish notice of the filing.

8 (3) Three months prior to a water or sewer corporation filing a petition to establish
9 a WSIRA, it shall also file with the commission a five-year capital expenditure plan unless
10 such a plan has already been submitted during the previous twelve months. Thereafter,
11 the water or sewer corporation shall annually file with the commission a five-year capital
12 expenditure plan by January thirty first of each year the company is collecting revenues
13 through a WSIRA.

14 **2. (1) When a petition, along with any associated proposed rate schedules, is filed**
15 **pursuant to the provisions of sections 393.1503 to 393.1509, the commission shall conduct**
16 **an examination of the proposed WSIRA.**

17 **(2) The staff of the commission may examine information of the water or sewer**
18 **corporation to confirm that the underlying costs are in accordance with the provisions of**
19 **sections 393.1503 to 393.1509, and to confirm proper calculation of the proposed WSIRA,**
20 **and may submit a report regarding its examination to the commission not later than ninety**
21 **days after the petition is filed. No other revenue requirement or ratemaking issues shall**
22 **be examined in consideration of the petition or associated proposed WSIRA rate schedules**
23 **filed pursuant to the provisions of sections 393.1503 to 393.1509.**

24 **(3) The commission may hold a hearing on the petition and any associated WSIRA**
25 **rate schedule and shall issue an order to become effective not later than one hundred eighty**
26 **days after the petition is filed.**

27 **(4) If the commission finds that a petition complies with the requirements of**
28 **sections 393.1503 to 393.1509, the commission shall enter an order authorizing the water**
29 **or sewer corporation to implement a WSIRA that is sufficient to recover appropriate**
30 **pretax revenues, as determined by the commission pursuant to the provisions of sections**
31 **393.1503 to 393.1509.**

32 **3. A water or sewer corporation may effectuate a change in its WSIRA pursuant**
33 **to this section no more often than two times in every twelve-month period.**

34 **4. In determining the appropriate pretax revenues, the commission shall consider**
35 **only the following factors:**

36 **(1) The current state, federal, and local income or excise tax rates, including any**
37 **income tax deductions;**

38 **(2) The water or sewer corporation's actual regulatory capital structure as**
39 **determined during the most recent general rate proceeding of the water or sewer**
40 **corporation;**

41 **(3) The actual cost rates for the water or sewer corporation's debt and preferred**
42 **stock as determined during the most recent general rate proceeding of the water or sewer**
43 **corporation;**

44 **(4) The water or sewer corporation's cost of common equity as determined during**
45 **the most recent general rate proceeding of the water or sewer corporation;**

46 **(5) The current property tax rate or rates applicable to the eligible infrastructure**
47 **system projects;**

48 **(6) The current depreciation rates applicable to the eligible infrastructure system**
49 **projects;**

50 **(7) In the event information described in subdivisions (2), (3), and (4) of this**
51 **subsection is unavailable and the commission is not provided with such information on an**
52 **agreed-upon basis, the commission shall utilize the overall pretax weighted average cost**
53 **of capital last authorized for the water or sewer in a general rate proceeding regarding an**
54 **ISRS or WSIRA.**

55 **5. (1) A WSIRA shall be calculated based upon the amount of infrastructure**
56 **system project costs that are eligible for recovery during the period in which the WSIRA**
57 **will be in effect and upon the applicable customer class billing determinants utilized in**
58 **designing the water or sewer corporation's customer rates in its most recent general rate**
59 **proceeding and allocated in a manner consistent with the rate design methodology utilized**
60 **to develop the water or sewer corporation's base rates resulting from its most recent**
61 **general rate proceeding.**

62 **(2) At the end of each twelve-month calendar period that a WSIRA is in effect, the**
63 **water or sewer corporation shall reconcile the differences between the revenues resulting**
64 **from a WSIRA and the appropriate pretax revenues as found by the commission for that**
65 **period and shall submit the reconciliation and a proposed WSIRA to the commission for**
66 **approval to recover or credit the difference, as appropriate, through a WSIRA.**

67 **6. (1) A water or sewer corporation that has implemented a WSIRA pursuant to**
68 **the provisions of sections 393.1503 to 393.1509 shall file revised WSIRA schedules to reset**
69 **the WSIRA to zero when new base rates and charges become effective for the water or**
70 **sewer corporation following a commission order establishing customer rates in a general**
71 **rate proceeding that incorporates in the utility's base rates, subject to subsections 8 and**
72 **9 of this section, eligible costs previously reflected in a WSIRA.**

73 **(2) Upon the inclusion in a water or sewer corporation's base rates, subject to**
74 **subsections 8 and 9 of this section, of eligible costs previously reflected in a WSIRA, the**
75 **water or sewer corporation shall immediately thereafter reconcile any previously**
76 **unreconciled WSIRA revenues as necessary to ensure that revenues resulting from the**
77 **WSIRA match as closely as possible the appropriate pretax revenues as found by the**
78 **commission for that period.**

79 **7. A water or sewer corporation's filing of a petition to establish or change a**
80 **WSIRA pursuant to the provisions of sections 393.1503 to 393.1509 shall not be considered**
81 **a request for a general increase in the water or sewer corporation's base rates and charges.**

82 **8. Commission approval of a petition, and any associated rate schedules, to**
83 **establish or change a WSIRA pursuant to the provisions of sections 393.1503 to 393.1509**
84 **shall in no way be binding upon the commission in determining the ratemaking treatment**
85 **to be applied to eligible infrastructure system projects during a subsequent general rate**

86 proceeding when the commission may undertake to review the prudence of such costs. In
87 the event the commission disallows, during a subsequent general rate proceeding, recovery
88 of costs associated with eligible infrastructure system projects previously included in a
89 WSIRA, the water or sewer corporation shall offset its WSIRA in the future as necessary
90 to recognize and account for any such overcollections.

91 9. Nothing contained in sections 393.1503 to 393.1509 shall be construed to impair
92 in any way the authority of the commission to review the reasonableness of the rates or
93 charges of a water or sewer corporation, including review of the prudence of eligible
94 infrastructure system replacements made by a water or sewer corporation, pursuant to the
95 provisions of section 386.390.

96 10. The commission may take into account any change in business risk to the water
97 or sewer corporation resulting from implementation of the WSIRA in setting the
98 corporation's allowed return in a general rate proceeding in addition to any other changes
99 in business risk experienced by the corporation

100 11. The commission shall have authority to promulgate rules for the
101 implementation of sections 393.1503 to 393.1509, but only to the extent such rules are
102 consistent with, and do not delay the implementation of, the provisions of sections 393.1503
103 to 393.1509. Any rule or portion of a rule, as that term is defined in section 536.010, that
104 is created under the authority delegated in this section shall become effective only if it
105 complies with and is subject to all of the provisions of chapter 536 and, if applicable,
106 section 536.028. This section and chapter 536 are nonseverable and if any of the powers
107 vested with the general assembly pursuant to chapter 536 to review, to delay the effective
108 date, or to disapprove and annul a rule are subsequently held unconstitutional, then the
109 grant of rulemaking authority and any rule proposed or adopted after August 28, 2021,
110 shall be invalid and void.

111 12. The provisions of sections 393.1500 to 393.1509 shall expire on December 31,
112 2031.

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

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

7 (2) "Assignee", a legally recognized entity to which an electrical corporation
8 assigns, sells, or transfers, other than as security, all or a portion of its interest in or right
9 to securitized utility tariff property. The term includes a corporation, limited liability

10 company, general partnership or limited partnership, public authority, trust, financing
11 entity, or any entity to which an assignee assigns, sells, or transfers, other than as security,
12 its interest in or right to securitized utility tariff property;

13 (3) "Bondholder", a person who holds a securitized utility tariff bond;

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

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

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

18 (7) "Energy transition costs", all of the following:

19 (a) Pretax costs with respect to a retired or abandoned or to be retired or
20 abandoned electric generating facility that is the subject of a petition for a financing order
21 filed under this section where such early retirement or abandonment is deemed reasonable
22 and prudent by the commission through a final order issued by the commission include,
23 but are not limited to, the undepreciated investment in the retired or abandoned or to be
24 retired or abandoned electric generating facility and any facilities ancillary thereto or used
25 in conjunction therewith, costs of decommissioning and restoring the site of the electric
26 generating facility, other applicable capital and operating costs, accrued carrying charges,
27 and deferred expenses with the foregoing to be reduced by applicable tax benefits of
28 accumulated and excess deferred income taxes, insurance scrap and salvage proceeds and
29 include the cost of retiring any existing indebtedness, fees, costs, and expenses to modify
30 existing debt agreements or for waivers or consents related to existing debt agreements;
31 and

32 (b) Pretax costs that an electrical corporation has previously incurred related to the
33 retirement or abandonment of such an electric generating facility occurring before August
34 28, 2021;

35 (8) "Financing costs", includes all of the following:

36 (a) Interest and acquisition, defeasance, or redemption premiums payable on
37 securitized utility tariff bonds;

38 (b) Any payment required under an ancillary agreement and any amount required
39 to fund or replenish a reserve account or other accounts established under the terms of any
40 indenture, ancillary agreement, or other financing documents pertaining to securitized
41 utility tariff bonds;

42 (c) Any other cost related to issuing, supporting, repaying, refunding, and servicing
43 securitized utility tariff bonds, including servicing fees, accounting and auditing fees,
44 trustee fees, legal fees, consulting fees, structuring adviser fees, administrative fees,
45 placement and underwriting fees, independent director and manager fees, capitalized

46 interest, rating agency fees, stock exchange listing and compliance fees, security
47 registration fees, filing fees, information technology programming costs, and any other
48 costs necessary to otherwise ensure the timely payment of securitized utility tariff bonds
49 or other amounts or charges payable in connection with the bonds, including costs related
50 to obtaining the financing order;

51 (d) Any taxes and license fees or other fees imposed on the revenues generated from
52 the collection of the securitized utility tariff charge or otherwise resulting from the
53 collection of securitized utility tariff charges, in any such case whether paid, payable, or
54 accrued;

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

57 (f) Any costs of the commission needed to perform the commission responsibilities
58 under this act in connection with the issuance of a financing order including costs to engage
59 counsel and a financial advisor;

60 (9) "Financing order", an order from the commission that authorizes the issuance
61 of securitized utility tariff bonds; the imposition, collection, and periodic adjustments of
62 a securitized utility tariff charge; the creation of securitized utility tariff property; and the
63 sale, assignment, or transfer of energy transition property to an assignee;

64 (10) "Financing party", bondholders and trustees, collateral agents, any party
65 under an ancillary agreement, or any other person acting for the benefit of bondholders;

66 (11) "Financing statement", the same as defined in article 9 of the code;

67 (12) "Pledgee", a financing party to which an electrical corporation or its
68 successors or assignees mortgages, negotiates, pledges, or creates a security interest or lien
69 on all or any portion of its interest in or right to securitized utility tariff property;

70 (13) "Qualified extraordinary costs", costs incurred prudently before, on, or after
71 the effective date of this section of an extraordinary nature which could cause extreme
72 customer rate impacts if reflected in retail customer rates through customary ratemaking
73 including, but not limited to, those related to purchases of fuel or power, inclusive of
74 carrying charges, during anomalous weather events;

75 (14) "Rate base cutoff date", the same as defined in subdivision (4) of subsection
76 1 of section 393.1400 as such term existed on August 28, 2021;

77 (15) "Securitized utility tariff bonds", bonds, debentures, notes, certificates of
78 participation, certificates of beneficial interest, certificates of ownership, or other evidence
79 of indebtedness or ownership that are issued by an electrical corporation or an assignee
80 pursuant to a financing order, the proceeds of which are used directly or indirectly to
81 recover, finance, or refinance commission-approved energy transition costs and financing

82 costs, and that are secured by or payable from energy transition property. If certificates
83 of participation or ownership are issued, references in this section to principal, interest, or
84 premium shall be construed to refer to comparable amounts under those certificates;

85 (16) "Securitized utility tariff charge", the amounts authorized by the commission
86 to repay, finance, or refinance energy transition costs and financing costs and that are,
87 except as otherwise provided for in this section, nonbypassable charges imposed on and
88 part of all retail customer bills collected by an electrical corporation or its successors or
89 assignees or a collection agent, in full, separate and apart from the electrical corporation's
90 base rates, and paid by all existing or future retail customers receiving electrical service
91 from the electrical corporation or its successors or assignees under commission-approved
92 rate schedules, except for customers receiving electrical service under special contracts as
93 of August 28, 2021, even if a retail customer elects to purchase electricity from an
94 alternative electricity supplier following a fundamental change in regulation of public
95 utilities in this state;

96 (17) "Securitized utility tariff costs", either energy transition costs or qualified
97 extraordinary costs, as the case may be;

98 (18) "Securitized utility tariff property", all of the following:

99 (a) All rights and interests of an electrical corporation or successor or assignee of
100 the electrical corporation under a financing order, including the right to impose, bill,
101 charge, collect, and receive securitized utility tariff charges authorized under the financing
102 order and to obtain periodic adjustments to such charges as provided in the financing
103 order; and

104 (b) All revenues, collections, claims, rights to payments, payments, moneys, or
105 proceeds arising from the rights and interests specified in the financing order, regardless
106 of whether such revenues, collections, claims, rights to payment, payments, moneys, or
107 proceeds are imposed, billed, received, collected, or maintained together with or
108 commingled with other revenues, collections, rights to payment, payments, moneys, or
109 proceeds;

110 (19) "Special contract", electrical service provided under the terms of a special
111 incremental load rate schedule at a fixed price rate approved by the commission.

112 2. (1) An electrical corporation may petition the commission for a financing order
113 to finance energy transition costs through an issuance of securitized utility tariff bonds.
114 The petition shall include all of the following:

115 (a) A description of the electric generating facility or facilities that the electrical
116 corporation has retired or abandoned, or proposes to retire or abandon, prior to the date
117 that all undepreciated investments relating thereto have been recovered through rates and

118 the reasons for undertaking such early retirement or abandonment, or if the electrical
119 corporation is subject to a separate commission order or proceeding relating to such
120 retirement or abandonment as contemplated by subdivision (2) of this subsection, and a
121 description of the order or other proceeding;

122 (b) The energy transition costs;

123 (c) An indicator of whether the electrical corporation proposes to finance all or a
124 portion of the energy transition costs using securitized utility tariff bonds. If the electrical
125 corporation proposes to finance a portion of the costs, the electrical corporation shall
126 identify the specific portion in the petition. By electing not to finance all or any portion of
127 such energy transition costs using securitized utility tariff bonds, an electrical corporation
128 shall not be deemed to waive its right to recover such costs pursuant to a separate
129 proceeding with the commission;

130 (d) An estimate of the financing costs related to the securitized utility tariff bonds;

131 (e) An estimate of the energy transition charges necessary to recover the securitized
132 utility tariff costs and financing costs and the period for recovery of such costs;

133 (f) A comparison between the net present value of the costs to customers that are
134 estimated to result from the issuance of securitized utility tariff bonds and the costs that
135 would result from the application of the traditional method of financing and recovering the
136 undepreciated investment of facilities that may become securitized utility tariff costs from
137 customers. The comparison should demonstrate that the issuance of energy transition
138 bonds and the imposition of securitized utility tariff charges are expected to provide
139 quantifiable benefits to customers;

140 (g) A proposed future ratemaking process to reconcile any differences between
141 securitized utility tariff costs financed by securitized utility tariff bonds and the final
142 securitized costs incurred by the electrical corporation or assignee provided that any such
143 reconciliation shall not affect the amount of securitized utility tariff bonds or the associated
144 securitized utility tariff charges paid by customers; and

145 (h) Direct testimony and schedules supporting the petition.

146 (2) An electrical corporation may petition the commission for a financing order to
147 securitize qualified extraordinary costs. The petition shall include all of the following:

148 (a) A description of the qualified extraordinary costs, including their magnitude,
149 the reasons those costs were incurred by the electrical corporation and the retail customer
150 rate impact that would result from customary ratemaking treatment of such costs;

151 (b) An indicator of whether the electrical corporation proposes to finance all or a
152 portion of the qualified extraordinary costs using securitized utility tariff bonds. If the
153 electrical corporation proposes to finance a portion of the costs, the electrical corporation

154 shall identify the specific portion in the petition. By electing not to finance all or any
155 portion of such qualified extraordinary costs using securitized utility tariff bonds, an
156 electrical corporation shall not be deemed to waive its right to reflect recover such costs in
157 its retail rates pursuant to a separate proceeding with the commission;

158 (c) An estimate of the financing costs related to the securitized utility tariff bonds;

159 (d) An estimate of the securitized utility tariff charges necessary to recover the
160 qualified extraordinary costs and financing costs and the period for recovery of such costs;

161 (e) A comparison between the net present value of the costs to customers that are
162 estimated to result from the issuance of securitized utility tariff bonds and the costs that
163 would result from the application of the customary method of financing and reflecting
164 covering the qualified extraordinary costs in from retail customer rates. The comparison
165 should demonstrate that the issuance of securitized utility tariff bonds and the imposition
166 of securitized utility tariff charges are expected to provide quantifiable benefits to retail
167 customers;

168 (f) A proposed future ratemaking process to reconcile any differences between
169 securitized utility tariff costs financed by securitized utility tariff bonds and the final
170 securitized costs incurred by the electrical corporation or assignee provided that any such
171 reconciliation shall not affect the amount of securitized utility tariff bonds or the associated
172 securitized utility tariff charges paid by customers;

173 (g) Direct testimony and schedules supporting the petition.

174 (3) (a) Proceedings on a petition submitted pursuant to this subdivision begin with
175 the petition by an electrical corporation, filed subject to the time frame specified in
176 subdivision (2) of this subsection, if applicable, and shall be disposed of in accordance with
177 the requirements of this section and the rules of the commission, except as follows:

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

181 b. No later than one hundred thirty-five days after the date the petition is filed, the
182 commission shall issue a financing order approving the petition or an order rejecting the
183 petition; provided, however, that the electrical corporation shall provide notice of intent
184 to file a petition for in proceedings initiated by the first petition for a financing order to the
185 commission no less than 60 days in advance of such filing; and

186 c. An adversely affected party may seek judicial review of a financing order in
187 accordance with sections 386.500 and 386.510.

188 (b) A financing order issued by the commission, after a hearing, to an electrical
189 corporation shall include all of the following elements:

- 190 **a. The amount of securitized utility tariff costs to be financed using securitized**
191 **utility tariff bonds and a finding that recovery of such costs is just and reasonable. The**
192 **commission shall describe and estimate the amount of financing costs that may be**
193 **recovered through securitized utility tariff charges and specify the period over which**
194 **securitized utility tariff costs and financing costs may be recovered;**
- 195 **b. A finding that the proposed issuance of securitized utility tariff bonds and the**
196 **imposition and collection of a securitized utility tariff charge are just and reasonable and**
197 **are expected to provide quantifiable benefits to customers as compared to the costs to**
198 **recover the securitized utility tariff costs that would have been incurred absent the issuance**
199 **of securitized utility tariff bonds;**
- 200 **c. A finding that the structuring and pricing of the securitized utility tariff bonds**
201 **are reasonably expected to result in the lowest securitized utility tariff charges consistent**
202 **with market conditions at the time the securitized utility tariff bonds are priced and the**
203 **terms of the financing order;**
- 204 **d. A requirement that, for so long as the securitize utility tariff bonds are**
205 **outstanding and until all financing costs have been paid in full, the imposition and**
206 **collection of energy transition charges authorized under a financing order shall be**
207 **nonbypassable and paid by all existing and future retail customers receiving electrical**
208 **service from the electrical corporation or its successors or assignees under commission-**
209 **approved rate schedules, except for customers receiving electrical service under special**
210 **contracts on August 28, 2021, even if a retail customer elects to purchase electricity from**
211 **an alternative electric supplier following a fundamental change in regulation of public**
212 **utilities in this state;**
- 213 **e. A formula-based, true-up mechanism for making, at least annually, expeditious**
214 **periodic adjustments in the securitized utility tariff charges that customers are required**
215 **to pay pursuant to the financing order and for making any adjustments that are necessary**
216 **to correct for any overcollection or undercollection of the charges or to otherwise ensure**
217 **the timely payment of securitized utility tariff bonds and financing costs and other**
218 **required amounts and charges payable in connection with the energy transition bonds;**
- 219 **f. The securitized utility tariff property that is, or shall be, created in favor of an**
220 **electrical corporation or its successors or assignees and that shall be used to pay or secure**
221 **energy transition bonds and all financing costs;**
- 222 **g. The degree of flexibility to be afforded to the electrical corporation in**
223 **establishing the terms and conditions of the securitized utility tariff bonds, including, but**
224 **not limited to, repayment schedules, expected interest rates, and other financing costs;**

225 **h. How securitized utility tariff charges will be allocated among retail customer**
226 **classes. The initial allocation shall remain in effect until the electrical corporation**
227 **completes a general rate proceeding, and once the commission's order from that general**
228 **rate proceeding becomes final, all subsequent applications of an adjustment mechanism**
229 **regarding securitized utility tariff charges shall incorporate changes in the allocation of**
230 **costs to customers as detailed in the commission's order from the electrical corporation's**
231 **most recent general rate proceeding;**

232 **i. A requirement that, after the final terms of an issuance of securitized utility tariff**
233 **bonds have been established and before the issuance of securitized utility tariff bonds, the**
234 **electrical corporation determines the resulting initial securitized utility tariff charge in**
235 **accordance with the financing order and that such initial securitized utility tariff charge**
236 **be final and effective upon the issuance of such securitized utility tariff bonds without**
237 **further commission action so long as the securitized utility tariff charge is consistent with**
238 **the financing order;**

239 **j. A method of tracing funds collected as securitized utility tariff charges, or other**
240 **proceeds of securitized utility tariff property, determining that such method shall be**
241 **deemed the method of tracing such funds and determining the identifiable cash proceeds**
242 **of any securitized utility tariff property subject to a financing order under applicable law;**

243 **k. A statement specifying a future rate-making process to reconcile any differences**
244 **between the actual securitized utility tariff costs financed by securitized utility tariff bonds**
245 **and the final securitized utility tariff costs incurred by the electrical corporation or**
246 **assignee provided that any such reconciliation shall not affect the amount of securitized**
247 **utility tariff bonds or the associated securitized utility tariff charges paid by customers;**

248 **l. A procedure that shall allow the electrical corporation to earn a return, at the**
249 **cost of capital authorized from time to time by the commission in the electrical**
250 **corporation's rate proceedings, on any moneys advanced by the electrical corporation to**
251 **fund reserves, if any, or capital accounts established under the terms of any indenture,**
252 **ancillary agreement, or other financing documents pertaining to the securitized utility**
253 **tariff bonds;**

254 **m. In a financing order granting authorization to securitize energy transition costs**
255 **or in a financing order granting authorization to securitize qualified extraordinary costs**
256 **that include retired or abandoned facility costs, a procedure for the treatment of**
257 **accumulated deferred income taxes and excess deferred income taxes in connection with**
258 **the retired or abandoned or to be retired or abandoned electric generating facility, or in**
259 **connection with retired or abandoned facilities included in qualified extraordinary costs.**
260 **The accumulated deferred income taxes, including excess deferred income taxes, shall be**

261 excluded from rate base in future general rate cases and the net tax benefits relating to
262 amounts that will be recovered through the issuance of securitized utility tariff bonds shall
263 be credited to retail customers by reducing the amount of such securitized utility tariff
264 bonds that would otherwise be issued. The customer credit shall include the net present
265 value of the tax benefits, calculated using a discount rate equal to the expected interest rate
266 of the securitized utility tariff bonds, for the estimated accumulated and excess deferred
267 income taxes at the time of securitization including timing differences created by the
268 issuance of securitized utility tariff bonds amortized over the period of the bonds
269 multiplied by the expected interest rate on such securitized utility tariff bonds;

270 n. An outside date, which shall not be earlier than one year after the date the
271 financing order is no longer subject to appeal, when the authority to issue securitized
272 utility tariff bonds granted in such financing order shall expire; and

273 o. Any other conditions that the commission considers appropriate and that are
274 authorized by this section.

275 (c) A financing order issued to an electrical corporation may provide that creation
276 of the electrical corporation's securitized utility tariff property is conditioned upon, and
277 simultaneous with, the sale or other transfer of the securitized utility tariff property to an
278 assignee and the pledge of the securitized utility tariff property to secure energy transition
279 bonds.

280 (d) If the commission issues a financing order, the electrical corporation shall file
281 with the commission at least annually a petition or a letter applying the formula-based,
282 true-up mechanism and, based on estimates of consumption for each rate class and other
283 mathematical factors, request administrative approval to make the applicable adjustments.
284 The review of the filing shall be limited to determining whether there are any mathematical
285 or clerical errors in the application of the formula-based, true-up mechanism relating to
286 the appropriate amount of any overcollection or undercollection of securitized utility tariff
287 charges and the amount of an adjustment. The adjustments shall ensure the recovery of
288 revenues sufficient to provide for the payment of principal, interest, acquisition,
289 defeasance, financing costs, or redemption premium and other fees, costs, and charges in
290 respect of securitized utility tariff bonds approved under the financing order. Within
291 thirty days after receiving an electrical corporation's request pursuant to this paragraph,
292 the commission shall either approve the request or inform the electrical corporation of any
293 mathematical or clerical errors in its calculation. If the commission informs the electrical
294 corporation of mathematical or clerical errors in its calculation, the electrical corporation
295 may correct its error and refile its request. The time frames previously described in this
296 paragraph shall apply to a refiled request.

297 (e) a. At the time of any transfer of securitized utility tariff property to an assignee
298 or the issuance of securitized utility tariff bonds authorized thereby, whichever is earlier,
299 a financing order is irrevocable and, except for changes made pursuant to the formula-
300 based, true-up mechanism authorized in this section, the commission may not amend,
301 modify, or terminate the financing order by any subsequent action or reduce, impair,
302 postpone, terminate, or otherwise adjust securitized utility tariff charges approved in the
303 financing order. After the issuance of a financing order, the electrical corporation retains
304 sole discretion regarding whether to assign, sell, or otherwise transfer securitized utility
305 tariff property or to cause securitized utility tariff bonds to be issued, including the right
306 to defer or postpone such assignment, sale, transfer, or issuance.

307 b. The commission, in a financing order and subject to the issuance advice letter
308 process under sub-paragraph c of this paragraph, shall afford the electrical corporation
309 flexibility in establishing the terms and conditions for the securitized utility tariff bonds
310 to accommodate changes in market conditions, including repayment schedules, interest
311 rates, financing costs, collateral requirements, required debt service and other reserves and
312 the ability of the electrical corporation, at its option, to effect a series of issuances of
313 securitized utility tariff bonds and correlated assignments, sales, pledges or other transfers
314 of securitized utility tariff property. Any changes made under this sub-paragraph to terms
315 and conditions for the securitized utility tariff bonds shall be in conformance with the
316 financing order.

317 c. As the actual structure and pricing of the securitized utility tariff bonds will be
318 unknown at the time the financing order is issued, the electrical corporation that intends
319 to cause the issuance of such bonds shall provide to the commission, prior to the issuance
320 of each series of bonds, an issuance advice letter following the determination of the final
321 terms of such series of bonds no later than one day after the pricing of the securitized
322 utility tariff bonds. The commission shall have the authority to designate a representative
323 from commission staff, who may be advised by a financial adviser contracted with the
324 commission, to observe all facets of the process undertaken by the electrical corporation
325 to place the securitized utility tariff bonds to market so the commission's representative
326 can be prepared, if requested, to provide the commission with an opinion on the
327 reasonableness of the pricing, terms and conditions of the securitized utility tariff bonds
328 on an expedited basis. The form of such issuance advice letter shall be included in the
329 financing order and shall indicate the final structure of the securitized utility tariff bonds
330 and provide the best available estimate of total ongoing financing costs. The issuance
331 advice letter shall report the initial securitized utility tariff charges and other information
332 specific to the securitized utility tariff bonds to be issued, as the commission may require.

333 Unless an earlier date is specified in the financing order, the electrical corporation may
334 proceed with the issuance of the securitized utility tariff bonds unless, prior to noon on the
335 fourth business day after the commission receives the issuance advice letter, the
336 commission issues a disapproval letter directing that the bonds as proposed shall not be
337 issued and the basis for that disapproval. The financing order may provide such
338 additional provisions relating to the issuance advice letter process as the commission
339 considers appropriate and as are authorized by this section.

340 (4) (a) In performing the responsibilities of this section in connection with the
341 issuance of a financing order, the commission shall undertake due diligence as it deems
342 appropriate prior to the issuance of the financing order pursuant to which the commission
343 may request additional information from the electrical corporation and may engage a
344 financial advisor and counsel as the commission deems necessary. Any financial advisor
345 or counsel engaged by the commission shall have a fiduciary duty with respect to the
346 proposed issuance of securitized utility bonds solely to the commission. All expenses
347 associated with such services shall be included in the securitized utility tariff charge.

348 (b) If an electrical corporation's petition for a financing order is denied or
349 withdrawn, or for any reason securitized utility tariff bonds are not issued, any costs of
350 retaining a financial advisor and counsel on behalf of the commission shall be paid by the
351 petitioning electrical corporation and shall be eligible for full recovery, including carrying
352 costs, in the electrical corporation's future rates.

353 (5) At the request of an electrical corporation, the commission may commence a
354 proceeding and issue a subsequent financing order that provides for refinancing, retiring,
355 or refunding securitized utility tariff bonds issued pursuant to the original financing order
356 if the commission finds that the subsequent financing order satisfies all of the criteria
357 specified in this section for a financing order. Effective upon retirement of the refunded
358 securitized utility tariff bonds and the issuance of new securitized utility tariff bonds, the
359 commission shall adjust the related energy transition charges accordingly.

360 (6) (a) A financing order remains in effect and securitized utility tariff property
361 under the financing order continues to exist until securitized utility tariff bonds issued
362 pursuant to the financing order have been paid in full or defeased and, in each case, all
363 commission-approved financing costs of such securitized utility tariff bonds have been
364 recovered in full.

365 (b) A financing order issued to an electrical corporation remains in effect and
366 unabated notwithstanding the reorganization, bankruptcy, or other insolvency proceeding,
367 merger, or sale of the electrical corporation or its successors or assignees.

368 **3. (1) The commission may not, in exercising its powers and carrying out its duties**
369 **regarding any matter within its authority, consider the securitized utility tariff bonds**
370 **issued pursuant to a financing order to be the debt of the electrical corporation other than**
371 **for federal and state income tax purposes, consider the securitized utility tariff charges**
372 **paid under the financing order to be the revenue of the electrical corporation for any**
373 **purpose, consider the securitized utility tariff costs or financing costs specified in the**
374 **financing order to be the costs of the electrical corporation nor may the commission**
375 **determine any action taken by an electrical corporation which is consistent with the**
376 **financing order to be unjust or unreasonable, and section 386.300 shall not apply to the**
377 **issuance of securitized utility tariff bonds.**

378 **(2) Securitized utility tariff charges shall not be utilized or accounted for in**
379 **determining the electrical corporation's average overall rate, as defined in section 393.1655**
380 **and as used to determine the maximum retail rate impact limitations provided for by**
381 **subsections 3 and 4 of section 393.1655.**

382 **(3) No electrical corporation is required to file a petition for a financing order**
383 **under this section or otherwise utilize this section. An electrical corporation's decision not**
384 **to file a petition for a financing order under this section or otherwise utilize this section**
385 **shall not be admissible in any commission proceeding, nor shall it be otherwise utilized or**
386 **relied on by the commission in any proceeding respecting the electrical corporation's rates**
387 **or its accounting, including, without limitation, any general rate proceeding, fuel**
388 **adjustment clause docket, or proceedings relating to accounting authority, whether**
389 **initiated by the electrical corporation or otherwise. The commission may not order or**
390 **otherwise directly or indirectly require an electrical corporation to use securitized utility**
391 **tariff bonds to recover securitized utility tariff costs or to finance any project, addition,**
392 **plant, facility, extension, capital improvement, equipment, or any other expenditure. After**
393 **the issuance of a financing order, the electrical corporation retains sole discretion**
394 **regarding whether to cause the securitized utility tariff bonds to be issued, including the**
395 **right to defer or postpone such sale, assignment, transfer, or issuance. Nothing shall**
396 **prevent the electrical corporation from abandoning the issuance of securitized utility tariff**
397 **bonds under the financing order by filing with the commission a statement of**
398 **abandonment and the reasons therefore; provided, that the electrical corporation's**
399 **abandonment decision shall not be deemed imprudent because of the potential availability**
400 **of securitized utility tariff bond financing.**

401 **(4) The commission may not refuse to allow an electrical corporation to recover**
402 **securitized utility tariff costs in an otherwise permissible fashion, or refuse or condition**
403 **authorization or approval of the issuance and sale by an electrical corporation of securities**

404 or the assumption by the electrical corporation of liabilities or obligations, because of the
405 potential availability of securitized utility tariff bond financing.

406 (5) The commission may not, directly or indirectly, utilize or consider the debt
407 reflected by the securitized utility tariff bonds in establishing the electrical corporation's
408 capital structure used to determine any regulatory matter including, but not limited to the
409 electrical corporation's revenue requirement used to set its rates.

410 (6) The commission may not, directly or indirectly, consider the existence of
411 securitized utility tariff bonds or the potential use of securitized utility tariff bond
412 financing proceeds in determining the electrical corporation's authorized rate of return
413 used to determine the electrical corporation's revenue requirement used to set its rates.

414 4. The electric bills of an electrical corporation that has obtained a financing order
415 and caused securitized utility tariff bonds to be issued shall comply with the provisions of
416 this subsection; however, the failure of an electrical corporation to comply with this
417 subsection does not invalidate, impair, or affect any financing order, securitized utility
418 tariff property, securitized utility tariff charge, or securitized utility tariff bonds. The
419 electrical corporation shall do the following:

420 (1) Explicitly reflect that a portion of the charges on such bill represents securitized
421 utility tariff charges approved in a financing order issued to the electrical corporation and,
422 if the securitized utility tariff property has been transferred to an assignee, shall include
423 a statement to the effect that the assignee is the owner of the rights to securitized utility
424 tariff charges and that the electrical corporation or other entity, if applicable, is acting as
425 a collection agent or servicer for the assignee. The tariff applicable to customers shall
426 indicate the securitized utility tariff charge and the ownership of the charge; and

427 (2) Include the securitized utility tariff charge on each customer's bill as a separate
428 line item and include both the rate and the amount of the charge on each bill.

429 5. (1) (a) All securitized utility tariff property that is specified in a financing order
430 constitutes an existing, present, intangible property right or interest therein,
431 notwithstanding that the imposition and collection of securitized utility tariff charges
432 depends on the electrical corporation, to which the financing order is issued, performing
433 its servicing functions relating to the collection of energy transition charges and on future
434 electricity consumption. The property exists:

435 a. Regardless of whether the revenues or proceeds arising from the property have
436 been billed, have accrued, or have been collected; and

437 b. Notwithstanding the fact that the value or amount of the property is dependent
438 on the future provision of service to customers by the electrical corporation or its
439 successors or assignees and the future consumption of electricity by customers.

440 **(b) Securitized utility tariff property specified in a financing order exists until**
441 **securitized utility tariff bonds issued pursuant to the financing order are paid in full and**
442 **all financing costs and other costs of such energy transition bonds have been recovered in**
443 **full.**

444 **(c) All or any portion of securitized utility tariff property specified in a financing**
445 **order issued to an electrical corporation may be transferred, sold, conveyed, or assigned**
446 **to a successor or assignee that is wholly owned, directly or indirectly, by the electrical**
447 **corporation and created for the limited purpose of acquiring, owning, or administering**
448 **securitized utility tariff property or issuing securitized utility tariff bonds under the**
449 **financing order. All or any portion of securitized utility tariff property may be pledged**
450 **to secure securitized utility tariff bonds issued pursuant to the financing order, amounts**
451 **payable to financing parties and to counterparties under any ancillary agreements, and**
452 **other financing costs. Any transfer, sale, conveyance, assignment, grant of a security**
453 **interest in or pledge of securitized utility tariff property by an electrical corporation, or an**
454 **affiliate of the electrical corporation, to an assignee, to the extent previously authorized in**
455 **a financing order, does not require the prior consent and approval of the commission.**

456 **(d) If an electrical corporation defaults on any required remittance of securitized**
457 **utility tariff charges arising from securitized utility tariff property specified in a financing**
458 **order, a court, upon application by an interested party, and without limiting any other**
459 **remedies available to the applying party, shall order the sequestration and payment of the**
460 **revenues arising from the securitized utility tariff property to the financing parties or their**
461 **assignees. Any such financing order remains in full force and effect notwithstanding any**
462 **reorganization, bankruptcy, or other insolvency proceedings with respect to the electrical**
463 **corporation or its successors or assignees.**

464 **(e) The interest of a transferee, purchaser, acquirer, assignee, or pledgee in**
465 **securitized utility tariff property specified in a financing order issued to an electrical**
466 **corporation, and in the revenue and collections arising from that property, is not subject**
467 **to setoff, counterclaim, surcharge, or defense by the electrical corporation or any other**
468 **person or in connection with the reorganization, bankruptcy, or other insolvency of the**
469 **electrical corporation or any other entity.**

470 **(f) Any successor to an electrical corporation, whether pursuant to any**
471 **reorganization, bankruptcy, or other insolvency proceeding or whether pursuant to any**
472 **merger or acquisition, sale, or other business combination, or transfer by operation of law,**
473 **as a result of electrical corporation restructuring or otherwise, shall perform and satisfy**
474 **all obligations of, and have the same rights under a financing order as, the electrical**
475 **corporation under the financing order in the same manner and to the same extent as the**

476 electrical corporation, including collecting and paying to the person entitled to receive the
477 revenues, collections, payments, or proceeds of the securitized utility tariff property.
478 Nothing in this section is intended to limit or impair any authority of the commission
479 concerning the transfer or succession of interests of public utilities.

480 (g) Securitized utility tariff bonds shall be nonrecourse to the credit or any assets
481 of the electrical corporation other than the securitized utility tariff property as specified
482 in the financing order and any rights under any ancillary agreement.

483 (2) (a) The creation, perfection, and enforcement of any security interest in
484 securitized utility tariff property to secure the repayment of the principal and interest and
485 other amounts payable in respect of securitized utility tariff bonds, amounts payable under
486 any ancillary agreement and other financing costs are governed by this section and not by
487 the provisions of the code, except as otherwise provided in this section.

488 (b) A security interest in securitized utility tariff property is created, valid, and
489 binding at the later of the time:

490 a. The financing order is issued;

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

493 c. The debtor has rights in such securitized utility tariff property or the power to
494 transfer rights in such securitized utility tariff property; or

495 d. Value is received for the securitized utility tariff property.

496

497 The description of securitized utility tariff property in a security agreement is sufficient
498 if the description refers to this section and the financing order creating the securitized
499 utility tariff property.

500 (c) Upon the filing of a financing statement with the office of the secretary of state
501 as provided in this section, a security interest in securitized utility tariff property shall be
502 perfected against all parties having claims of any kind in tort, contract, or otherwise
503 against the person granting the security interest, and regardless of whether the parties
504 have notice of the security interest. Without limiting the foregoing, upon such filing, a
505 security interest in securitized utility tariff property shall be perfected against all claims
506 of lien creditors, and shall have priority over all competing security interests and other
507 claims other than any security interest previously perfected in accordance with this section.

508 (d) The priority of a security interest in securitized utility tariff property is not
509 affected by the commingling of securitized utility tariff charges with other amounts. Any
510 pledgee or secured party shall have a perfected security interest in the amount of all
511 securitized utility tariff charges that are deposited in any cash or deposit account of the

512 **qualifying electrical corporation in which securitized utility tariff charges have been**
513 **commingled with other funds and any other security interest that may apply to those funds**
514 **shall be terminated when they are transferred to a segregated account for the assignee or**
515 **a financing party.**

516 **(e) No application of the formula-based, true-up mechanism as provided in this**
517 **section will affect the validity, perfection, or priority of a security interest in or transfer of**
518 **securitized utility tariff property.**

519 **(f) If a default occurs under the securitized utility tariff bonds that are secured by**
520 **a security interest in securitized utility tariff property, the financing parties or their**
521 **representatives may exercise the rights and remedies available to a second party under the**
522 **uniform commercial code, including all rights and remedies available. The commission**
523 **may also order amounts arising from securitized utility tariff charges to be transferred to**
524 **a separate account for the financing parties' benefit, to which their lien and security**
525 **interest shall apply. On application by or on behalf of the financing parties, the circuit**
526 **court for the county or city in which the electrical corporation's headquarters is located**
527 **shall order the sequestration and payment to them of revenues arising from the securitized**
528 **utility tariff charges.**

529 **(3) (a) Any sale, assignment, or other transfer of securitized utility tariff property**
530 **shall be an absolute transfer and true sale of, and not a pledge of or secured transaction**
531 **relating to, the seller's right, title, and interest in, to, and under the energy transition**
532 **property if the documents governing the transaction expressly state that the transaction**
533 **is a sale or other absolute transfer other than for federal and state income tax purposes.**
534 **For all purposes other than federal and state income tax purposes, the parties'**
535 **characterization of a transaction as a sale of an interest in securitized utility tariff property**
536 **shall be conclusive that the transaction is a true sale and that ownership has passed to the**
537 **party characterized as the purchaser, regardless of whether the purchaser has possession**
538 **of any documents evidencing or pertaining to the interest. A sale or similar outright**
539 **transfer of an interest in securitized utility tariff property may occur only when all of the**
540 **following have occurred:**

541 **a. The financing order creating the securitized utility tariff property has become**
542 **effective;**

543 **b. The documents evidencing the transfer of securitized utility tariff property have**
544 **been executed by the assignor and delivered to the assignee; and**

545 **c. Value is received for the securitized utility tariff property.**

546

547 After such a transaction, the securitized utility tariff property is not subject to any claims
548 of the transferor or the transferor's creditors, other than creditors holding a prior security
549 interest in the securitized utility tariff property perfected in accordance with this section.

550 (b) The characterization of the sale, assignment, or other transfer as an absolute
551 transfer and true sale and the corresponding characterization of the property interest of
552 the purchaser, shall not be affected or impaired by the occurrence of any of the following
553 factors:

554 a. Commingling of securitized utility tariff charges with other amounts;

555 b. The retention by the seller of a partial or residual interest, including an equity
556 interest, in the energy transit securitized utility tariff property, whether direct or
557 indirect, or whether subordinate or otherwise, or the right to recover costs associated with
558 taxes, franchise fees, or license fees imposed on the collection of securitized utility tariff
559 charges;

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

561 d. Any indemnification rights, obligations, or repurchase rights made or provided
562 by the seller;

563 e. The obligation of the seller to collect securitized utility tariff charges on behalf
564 of an assignee;

565 f. The transferor acting as the servicer of the securitized utility tariff charges or the
566 existence of any contract that authorizes or requires the electrical corporation, to the extent
567 that any interest in securitized utility tariff property is sold or assigned, to contract with
568 the assignee or any financing party that it will continue to operate its system to provide
569 service to its customers, will collect amounts in respect of the securitized utility tariff
570 charges for the benefit and account of such assignee or financing party and will account
571 for and remit such amounts to or for the account of such assignee or financing party;

572 g. The treatment of the sale, conveyance, assignment, or other transfer for tax,
573 financial reporting, or other purposes;

574 h. The granting or providing to bondholders a preferred right to the securitized
575 utility tariff property or credit enhancement by the electrical corporation or its affiliates
576 with respect to such securitized utility tariff bonds; or

577 i. Any application of the formula-based, true-up mechanism as provided in this
578 section.

579 (c) Any right that an electrical corporation has in the securitized utility tariff
580 property before its pledge, sale, or transfer or any other right created under this section
581 or created in the financing order and assignable under this section or assignable pursuant
582 to a financing order, is property in the form of a contract right or a chose in action.

583 **Transfer of an interest in securitized utility tariff property to an assignee is enforceable**
584 **only upon the later of:**

585 **a. The issuance of a financing order;**

586 **b. The assignor having rights in such securitized utility tariff property or the power**
587 **to transfer rights in such securitized utility tariff property to an assignee; and**

588 **c. The execution and delivery by the assignor of transfer documents in connection**
589 **with the issuance of securitized utility tariff bonds; and**

590 **d. The receipt of value for the securitized utility tariff property.**

591

592 **An enforceable transfer of an interest in securitized utility tariff property to an assignee**
593 **is perfected against all third parties, including subsequent judicial or other lien creditors,**
594 **when a notice of that transfer has been given by the filing of a financing statement in**
595 **accordance with subsection 7 of this section. The transfer is perfected against third parties**
596 **as of the date of filing.**

597 **(d) The priority of a transfer perfected under this section is not impaired by any**
598 **later modification of the financing order or securitized utility tariff property or by the**
599 **commingling of funds arising from securitized utility tariff property with other funds. Any**
600 **other security interest that may apply to those funds, other than a security interest**
601 **perfected under this section, is terminated when they are transferred to a segregated**
602 **account for the assignee or a financing party. If securitized utility tariff property has been**
603 **transferred to an assignee or financing party, any proceeds of that property shall be held**
604 **in trust for the assignee or financing party.**

605 **(e) The priority of the conflicting interests of assignees in the same interest or rights**
606 **in any securitized utility tariff property is determined as follows:**

607 **a. Conflicting perfected interests or rights of assignees rank according to priority**
608 **in time of perfection. Priority dates from the time a filing covering the transfer is made in**
609 **accordance with subsection 7 of this section;**

610 **b. A perfected interest or right of an assignee has priority over a conflicting**
611 **unperfected interest or right of an assignee; and**

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

614 **6. The description of securitized utility tariff property being transferred to an**
615 **assignee in any sale agreement, purchase agreement, or other transfer agreement, granted**
616 **or pledged to a pledgee in any security agreement, pledge agreement, or other security**
617 **document, or indicated in any financing statement is only sufficient if such description or**
618 **indication refers to the financing order that created the securitized utility tariff property**

619 and states that the agreement or financing statement covers all or part of the property
620 described in the financing order. This section applies to all purported transfers of, and all
621 purported grants or liens or security interests in, securitized utility tariff property,
622 regardless of whether the related sale agreement, purchase agreement, other transfer
623 agreement, security agreement, pledge agreement, or other security document was entered
624 into, or any financing statement was filed.

625 7. The secretary of state shall maintain any financing statement filed to perfect a
626 sale or other transfer of securitized utility tariff property and any security interest in
627 securitized utility tariff property under this section in the same manner that the secretary
628 of state maintains financing statements filed under the code to perfect a security interest
629 in collateral owned by a transmitting utility. Except as otherwise provided in this section,
630 all financing statements filed pursuant to this section shall be governed by the provisions
631 regarding financing statements and the filing thereof under the uniform commercial code.
632 A security interest in securitized utility tariff property may be perfected only by the filing
633 of a financing statement in accordance with this section and no other method of perfection
634 shall be effective. Notwithstanding any provision of the code to the contrary, a financing
635 statement filed pursuant to this section is effective until a termination statement is filed
636 under the code and no continuation statement need be filed to maintain its effectiveness.
637 A financing statement filed pursuant to this section may indicate that the debtor is a
638 transmitting utility, and without regard to whether the debtor is an electrical corporation,
639 an assignee or otherwise qualifies as a transmitting utility under the code, but the failure
640 to make such indication shall not impair the duration and effectiveness of the financing
641 statement.

642 8. The law governing the validity, enforceability, attachment, perfection, priority,
643 and exercise of remedies with respect to the transfer of an interest or right or the pledge
644 or creation of a security interest in any securitized utility tariff property shall be the laws
645 of this state.

646 9. Neither the state nor its political subdivisions are liable on any securitized utility
647 tariff bonds, and the bonds are not a debt or a general obligation of the state or any of its
648 political subdivisions, agencies, or instrumentalities, nor are they special obligations or
649 indebtedness of the state or any agency or political subdivision. An issue of securitized
650 utility tariff bonds does not, directly, indirectly, or contingently obligate the state or any
651 agency, political subdivision, or instrumentality of the state to levy any tax or make any
652 appropriation for payment of the securitized utility tariff bonds, other than in their
653 capacity as consumers of electricity. All securitized utility tariff bonds shall contain on the
654 face thereof a statement to the following effect: "Neither the full faith and credit nor the

655 **taxing power of the state of Missouri is pledged to the payment of the principal of, or**
656 **interest on, this bond."**

657 **10. All of the following entities may legally invest any sinking funds, moneys, or**
658 **other funds in securitized utility tariff bonds:**

659 **(1) Subject to applicable statutory restrictions on state or local investment**
660 **authority, the state, units of local government, political subdivisions, public bodies, and**
661 **public officers, except for members of the commission, the commission's technical advisory**
662 **and other staff, or employees of the office of the public counsel;**

663 **(2) Banks and bankers, savings and loan associations, credit unions, trust**
664 **companies, savings banks and institutions, investment companies, insurance companies,**
665 **insurance associations, and other persons carrying on a banking or insurance business;**

666 **(3) Personal representatives, guardians, trustees, and other fiduciaries; and**

667 **(4) All other persons authorized to invest in bonds or other obligations of a similar**
668 **nature.**

669 **11. (1) The state and its agencies, including the commission, pledge and agree with**
670 **bondholders, the owners of the securitized utility tariff property, and other financing**
671 **parties that the state and its agencies will not take any action listed in this subdivision.**
672 **This subdivision does not preclude limitation or alteration if full compensation is made by**
673 **law for the full protection of the securitized utility tariff charges collected pursuant to a**
674 **financing order and of the bondholders and any assignee or financing party entering into**
675 **a contract with the electrical corporation. The prohibited actions are as follows:**

676 **(a) Alter the provisions of this section, which authorize the commission to create**
677 **an irrevocable contract right, or chose in action by the issuance of a financing order, to**
678 **create securitized utility tariff property, and make the securitized utility tariff charges**
679 **imposed by a financing order irrevocable, binding, or nonbypassable charges for all**
680 **existing and future retail customers of the electrical corporation except its existing special**
681 **contract customers;**

682 **(b) Take or permit any action that impairs or would impair the value of securitized**
683 **utility tariff property or the security for the securitized utility tariff bonds or revises the**
684 **securitized utility tariff costs for which recovery is authorized;**

685 **(c) In any way impair the rights and remedies of the bondholders, assignees, and**
686 **other financing parties; and**

687 **(d) Except for changes made pursuant to the formula-based, true-up mechanism**
688 **authorized under this section, reduce, alter, or impair securitized utility tariff charges that**
689 **are to be imposed, billed, charged, collected, and remitted for the benefit of the**
690 **bondholders, any assignee, and any other financing parties until any and all principal,**

691 interest, premium, financing costs and other fees, expenses, or charges incurred, and any
692 contracts to be performed, in connection with the related securitized utility tariff bonds
693 have been paid and performed in full.

694 (2) Any person or entity that issues securitized utility tariff bonds may include the
695 language specified in this subsection in the energy transition bonds and related
696 documentation.

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

699 13. If there is a conflict between this section and any other law regarding the
700 attachment, assignment, or perfection, or the effect of perfection, or priority of, assignment
701 or transfer of, or security interest in securitized utility tariff property, this section shall
702 govern.

703 14. If any provision of this section is held invalid or is invalidated, superseded,
704 replaced, repealed, or expires for any reason, that occurrence does not affect the validity
705 of any action allowed under this section which is taken by an electrical corporation, an
706 assignee, a financing party, a collection agent, or a party to an ancillary agreement and any
707 such action remains in full force and effect with respect to all securitized utility tariff bonds
708 issued or authorized in a financing order issued under this section before the date that such
709 provision is held invalid or is invalidated, superseded, replaced, or repealed or expires for
710 any reason.

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

3 (1) Renewable generation facilities which produce electric energy from wind, solar
4 thermal sources, photovoltaic cells and panels, dedicated crops grown for energy
5 production, cellulosic agricultural residues, plant residues, methane from landfills, from
6 agricultural operations, or from wastewater treatment, thermal depolymerization or
7 pyrolysis for converting waste material to energy, clean and untreated wood such as
8 pallets, hydropower, not including pumped storage that does not require a new diversion
9 or impoundment of water and that has a nameplate rating of ten megawatts or less, and
10 fuel cells using hydrogen produced by one of the above-named replacement sources;

11 (2) Generation facilities which produce electric energy from natural gas that enable
12 the electrical corporation to:

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

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

- 17 (c) Serve the objectives of both paragraphs (a) and (b) of this subdivision;
- 18 (3) Energy storage facilities that enable the electrical corporation to:
- 19 (a) Provide electric energy when renewable generation facilities are not generating
- 20 electric energy in sufficient quantities to meet the needs of the electrical corporation's
- 21 system;
- 22 (b) Meet requirements of the electrical corporation's regional transmission
- 23 organization; or
- 24 (c) Serve the objectives of both paragraphs (a) and (b) of this subdivision; and
- 25 (4) Transmission facilities that enable the delivery of electric energy from
- 26 renewable generation facilities or energy storage facilities including, but not limited to,
- 27 interconnection, network upgrades, voltage and reactive power support, and transmission
- 28 facilities needed to maintain reliability as a result of the retirement of generation facilities.
- 29 2. If requested by an electrical corporation in a petition filed concurrently with a
- 30 petition filed under subsection 2 of section 393.1700 to recover securitized utility tariff costs
- 31 and notwithstanding any other provision of chapter 386 or 393 to the contrary, including
- 32 section 393.170 which section shall not apply to the construction of replacement resources
- 33 as defined in subsection 1 of this section:
- 34 (1) Unless the commission has, prior to August 28, 2021, issued an order or orders
- 35 acknowledging retirement by an electrical corporation of specific electric generating
- 36 facilities and an order or orders authorizing construction by such electrical corporation
- 37 of generating facilities in place of such retired electric generating facilities, the commission
- 38 shall approve investment in replacement resources by the electrical corporation of an
- 39 amount that is approximately equal to the undepreciated investment in the electric
- 40 generating facilities covered by such petition to acquire or build an existing or new
- 41 renewable energy resource to replace the retired or abandoned or to be retired or
- 42 abandoned unit. There is no requirement that the replacement resource's capacity or
- 43 energy production match the energy or capacity production of the retired or abandoned
- 44 unit. Such approval shall constitute an affirmative and binding determination by the
- 45 commission, to be applied in all subsequent proceedings respecting the rates of the
- 46 electrical corporation, that such investment is prudent and reasonable, that the
- 47 replacement resource is necessary for the electrical corporation's provision of electric
- 48 service to its customers, and that such investment shall be reflected in the revenue
- 49 requirement used to set the electrical corporation's base rates, subject only to the
- 50 commission's authority to determine that the electrical corporation did not manage or
- 51 execute the project in a reasonable and prudent manner in some respect and its authority
- 52 to disallow for ratemaking purposes only that portion of the investment that would not

53 have been incurred had the unreasonable or imprudent management or execution of the
54 project not occurred; and

55 (2) The commission shall create a deferral mechanism by which the electrical
56 corporation shall defer, to a regulatory asset or regulatory liability as appropriate, the
57 changes in the electrical corporation's revenue requirement used to last set its base rates
58 as specified in this subdivision. Such changes shall be deferred during the period starting
59 on the date of retirement or abandonment of the subject unit and ending when the
60 electrical corporation is the subject of the petition and base rates are changed as the result
61 of a general rate proceeding where the rate base cutoff date in that general rate proceeding
62 occurs on or after the retirement or abandonment. For purposes of this subdivision, the
63 changes in the electrical corporation's revenue requirement that shall be deferred shall
64 only consist of:

65 (a) Changes in depreciation expense associated with the retired or abandoned unit;

66 (b) Changes in labor and benefit costs for employees or contractors no longer
67 employed or retained by the electrical corporation who formerly worked at the retired or
68 abandoned unit, net of severance and relocation costs of the electrical corporation paid to
69 such employees or contractors;

70 (c) Changes in nonlabor, nonfuel operations, and maintenance costs caused by the
71 retirement of the unit;

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

74 (e) Labor and benefits costs for employees or contractors who work at the
75 replacement resources; and

76 (f) Nonlabor, nonfuel operations, and maintenance costs of the replacement
77 resources.

78

79 The base against which changes under paragraphs (a), (b), and (c) of this subdivision shall
80 be the values of each such item used to set the electrical corporation's base electric rates
81 in its last general rate proceeding concluded prior to the time the deferrals are made,
82 provided, if the docketed record in such general rate proceeding does not specify one or
83 more necessary revenue requirement parameters to establish the base for an item because
84 of a "black box" settlement or otherwise, the commission shall, in the docket created by
85 a petition filed under this section and based on the docketed record in such prior general
86 rate proceeding, establish the missing parameters, which shall then be used to accomplish
87 the deferrals. The base with respect to paragraphs (d), (e), and (f) of this subdivision shall
88 be zero.

89 (3) The commission shall also create a deferral mechanism by which the electrical
90 corporation shall defer to a regulatory asset the changes in the electrical corporation's
91 revenue requirement last used to set its base rates as specified in this subdivision. Such
92 changes shall be deferred during the period beginning on the date deferrals cease under
93 subdivision (2) of this subsection and ending when the electrical corporation's base rates
94 are next changed as a result of a general rate proceeding. For purposes of this subdivision,
95 such changes in the electrical corporation's revenue requirement that shall be deferred
96 shall only consist of:

97 (a) Return on the electrical corporation's undepreciated investment in the unit that
98 was retired or abandoned at the electrical corporation's weighted average cost of capital,
99 plus applicable federal, state, and local income or excise taxes, used to establish the
100 electrical corporation's revenue requirement last used to set its base rates;

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

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

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

107

108 Notwithstanding the foregoing provisions of this subdivision, deferrals to the regulatory
109 asset created by this subdivision shall cease at the earlier of the date the electrical
110 corporation's base rates are first changed after the replacement resource is recorded to
111 plant in service on the electrical corporation's books where the rate base cutoff date in that
112 general rate proceeding occurred on or after the retirement or abandonment, or the
113 effective date of rates from a base rate case that shall be filed no later than one year after
114 the unit was retired or abandoned. If there is more than one replacement resource for the
115 retired or abandoned plant and if one or more such replacement resource is placed in
116 service prior to the rate base cutoff date in the general rate proceeding described in
117 subdivision (2) of this subsection, the deferrals called for under this subdivision shall be
118 reduced as needed to reflect that event. The weighted average cost of capital to be deferred
119 under paragraph (a) of this subdivision shall be the value used to set the electrical
120 corporation's base electric rates in its last general rate proceeding concluded prior to the
121 time the deferrals are made, provided, if the docketed record in such general rate
122 proceeding does not specify one or more necessary revenue requirement parameters to
123 establish the base for an item because of a "black box" settlement or otherwise, the
124 commission shall, in the docket created by a petition filed under this section and based on

125 the docketed record in such prior general rate proceeding, establish the missing
126 parameters, which shall then be used to accomplish the deferrals. The base with respect
127 to paragraphs (b), (c), and (d) of this subdivision shall be zero.

128 (4) It is the intention of this subsection to the maximum extent practicable that
129 electrical corporation earnings shall not be materially reduced or increased on account of
130 the retirement or abandonment of the unit during the interval between when the unit is
131 retired or abandoned and the date when the electrical corporation's base rates are changed
132 to reflect the investment in a replacement resource, subject to the requirement that
133 deferrals under subdivision (3) of this subsection end no later than the date base rates are
134 reset in a general rate proceeding filed no later than one year after the unit was retired or
135 abandoned.

136 (5) Notwithstanding the provisions of section 393.1400 to the contrary, a
137 replacement resource shall not constitute "qualifying electric plant" for purposes of section
138 393.1400, nor shall it constitute a renewable energy resource under section 393.1030,
139 during the period when a deferral is occurring under subdivision (2) or (3) of this
140 subsection. In addition, and notwithstanding the provisions of section 393.1400 to the
141 contrary, deferrals required by this section relating to the electrical corporation's
142 undepreciated investment in the retired or abandoned unit shall not constitute a change
143 in accumulated depreciation when determining the return deferred on qualifying electric
144 plant under section 393.1400.

145 (6) Parts of regulatory asset or liability balances created under this section that are
146 not yet being recovered or returned through rates shall include carrying costs at the
147 electrical corporation's weighted average cost of capital last used to set its base electric
148 service rates or, if such cost of capital was not specified for the revenue requirement last
149 used to set such electric service rates at the weighted average cost of capital determined by
150 the commission under subdivision (3) of this subsection, in each case plus applicable
151 federal, state, and local income or excise taxes. All regulatory asset or liability balances
152 from deferrals under this subsection shall be recovered in base rates over a period equal
153 to the remaining useful life of the replacement resource.

154 (7) In each general rate proceeding concluded after a deferral commences under
155 subdivision (2) or (3) of this subsection, the regulatory asset or liability balances arising
156 from such deferrals, as of the rate base cutoff date, shall be included in the electrical
157 corporation's rate base without any offset, reduction, or adjustment based upon
158 consideration of any other factor, other than to reflect any prudence disallowances ordered
159 by the commission, with the regulatory asset balances arising from such deferrals that
160 occur after the rate base cutoff date to be included in rate base in the next general rate

161 proceeding. The provisions of this section shall not be construed to affect existing law
162 respecting burdens of production and persuasion in general rate proceedings.

163 **3. Proceedings on a petition submitted pursuant to this section begin with the filing**
164 **of a petition by an electrical corporation under this section that is filed concurrently with**
165 **a petition submitted under section 393.1700, and shall be disposed of in accordance with**
166 **the requirements of chapters 386 and 393 and the rules of the commission, except as**
167 **follows:**

168 **(1) Within fourteen days after the date the petition is filed, the commission shall**
169 **establish a procedural schedule that permits a commission decision no later than one**
170 **hundred eighty-five days after the date the petition is filed. Such procedural schedule shall**
171 **contain the same milestones and requirements as the procedural schedule adopted in a**
172 **proceeding seeking approval of a financing order under section 393.1700 and shall run**
173 **concurrently therewith;**

174 **(2) No later than one hundred eighty-five days after the date the petition is filed,**
175 **the commission shall issue an order approving the petition or rejecting the petition. Any**
176 **adversely affected party may seek judicial review in accordance with sections 386.500 and**
177 **386.510.**

393.1710. 1. This section shall apply to each purchased power agreement with a
2 **term commencing on or after August 28, 2021, that the electrical corporation entered into**
3 **for the purchase of energy from renewable generation facilities as listed in subdivision (1)**
4 **of subsection 1 of section 393.1705 or from energy storage facilities as listed in subdivision**
5 **(3) of subsection 1 of section 393.1705. If the term of one or more purchased power**
6 **agreements have commenced prior to the rate base cutoff date in one of the electrical**
7 **corporation's general rate cases, the commission shall, without limiting recoveries outside**
8 **the context of a general rate case as contemplated by rate adjustment mechanisms**
9 **approved under the provisions of subsection 1 of section 386.266:**

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

13 **(2) Include in the revenue requirement used to set base rates in that general rate**
14 **case an additional amount equal to the common equity earnings the electrical corporation**
15 **would have received had it, in lieu of entering into each such purchased power agreement,**
16 **instead invested in and placed in service, on the date the term of each such purchased**
17 **power agreement commenced, a renewable energy resource of the type being operated to**
18 **supply energy under each such purchased power agreement with a capacity sufficient to**
19 **provide the quantity of energy being purchased under each such purchased power**

20 agreement. In determining the additional amount required by this subdivision, the
21 commission shall utilize the common equity return on rate base and the common equity
22 percentage used to determine the revenue requirement in that general rate case, provided,
23 if the docketed record in such general rate proceeding does not specify one or more
24 necessary revenue requirement parameters to establish the common equity return on rate
25 base and the common equity percentage used in that general rate case because of a "black
26 box" settlement or otherwise, the commission shall, in the docket created by a petition filed
27 under this section and based on the docketed record in such prior general rate proceeding,
28 establish the missing parameters, which shall then be used to quantify the common equity
29 earnings, and shall also include in such revenue requirement applicable federal, state, and
30 local income and excise taxes associated with such additional amount.

31 2. Subdivisions (1) and (2) of subsection 1 of this section shall continue to be
32 included in the revenue requirement used to set rates in each subsequent electrical
33 corporation general rate case where the term of the purchased power agreement remains
34 ongoing as of the rate base cutoff date in that proceeding. The amount included in the
35 revenue requirement in subsequent regular rate cases for subdivision (1) of subsection 1
36 of this section shall be based upon costs as of the rate base cutoff date in that case. Except
37 as specifically provided for in this subdivision, the amount included in the revenue
38 requirement in subsequent general rate cases for subdivision (2) of subsection 1 of this
39 section shall be calculated in the same manner as calculated for subdivision (2) of
40 subsection 1 of this section in the first general rate case where such amount was determined
41 and shall not be recalculated in subsequent general rate cases, except that the calculation
42 in each subsequent general rate case shall utilize the common equity return on rate base
43 and the common equity percentage used to determine the revenue requirement in that
44 subsequent case; provided, if the docketed record in such subsequent general rate
45 proceeding does not specify one or more necessary revenue requirement parameters to
46 establish the common equity return on rate base and the common equity percentage used
47 in that general rate case because of a "black box" settlement or otherwise, the commission
48 shall, in the docket created by a subsequent general rate case and based on the docketed
49 record in such prior general rate proceeding, establish the missing parameters, which shall
50 then be used to quantify the common equity earnings, and shall account for accumulated
51 depreciation that would have been accrued had the electric utility invested in and placed
52 a renewable energy resource in service instead of entering into a purchased power
53 agreement.

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

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

13 **2.** If the commission fails to issue a determination within one hundred thirty-five
14 days that a petition for determination of ratemaking principles and treatment is filed, the
15 ratemaking principles and treatment proposed by the petitioning electrical corporation
16 shall be deemed to have been approved by the commission.

17 **3.** Subject to the provisions of subsection 4 of this section, ratemaking principles
18 and treatment approved by the commission, or deemed to have been approved under
19 subsection 2 of this section, shall be binding for ratemaking purposes.

20 **4. (1)** An electrical corporation with ratemaking principles and treatment
21 approved by the commission, or deemed to have been approved under subsection 2 of this
22 section, shall monitor the major factors and circumstances relating to the facility to which
23 such principles and treatment apply. Such factors and circumstances include, but are not
24 limited to:

25 **(a)** Terrorist activity or an act of God;

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

27 **(c)** A significant change in federal utility laws or regulations or a significant change
28 in generally accepted accounting principles;

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

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

33 **(f)** A significant change in fuel prices and wholesale electric market conditions;

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

35 **(h)** A significant change in the price of emission allowances;

36 **(i)** A significant change in the electrical corporation's load forecast;

(j) A significant change in capital market conditions;

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

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

40 (2) If the electrical corporation determines that one or more major factor or
41 circumstance has changed in a manner that warrants a change in the approved ratemaking
42 principles and treatment, then it shall file a notice in the docket in which the approved
43 ratemaking principles and treatment were established within forty-five days of any such
44 determination. In its notification, the electrical corporation shall:

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

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

49 (c) Provide detailed workpapers that support the evaluation and the process
50 whereby proposed changes were developed.

51 (3) If a party has concerns regarding the proposed changes, that party shall file a
52 notice of its concerns within thirty days of the electrical corporation's filing. If the parties
53 do not reach agreement on changes to the ratemaking principles and treatment within
54 ninety days of the date the electrical corporation filed its notice, whether the previously
55 approved ratemaking and treatment will be changed shall be determined by the
56 commission. If a party to the docket in which the approved ratemaking principles and
57 treatment were approved believes that one or more major factor or circumstance has
58 changed in a manner that warrants a change in the approved ratemaking principles and
59 treatment and if the electrical corporation does not agree the principles and treatment
60 should be changed, such party shall file a notice in the docket in which the approved
61 ratemaking principles and treatment were established within forty-five days of any such
62 determination. In its notification, such party shall:

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

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

67 (c) Provide detailed workpapers that support the evaluation and the process
68 whereby proposed changes were developed.

69 (4) If a party, including the electrical corporation, has concerns regarding the
70 proposed changes, that party shall file a notice of its concerns within thirty days of the
71 other party's filing. If the parties do not reach agreement on changes to the ratemaking
72 principles and treatment within ninety days of the date the notice was filed, whether the

73 **previously approved ratemaking and treatment will be changed shall be determined by the**
74 **commission.**

75 **5. A determination of ratemaking principles and treatment under this section does**
76 **not preclude an electrical corporation from also petitioning the commission under either**
77 **or both of sections 393.1700 and 393.1705, provided that any costs to which such**
78 **ratemaking principles and treatment would have applied in the electrical corporation's**
79 **general rate proceedings which become funded by securitized utility tariff bond proceeds**
80 **from a securitized utility tariff bond issued under section 393.1700 shall not thereafter be**
81 **reflected in the electrical corporation's base rates.**

82 **6. The commission may promulgate rules to implement the provisions of sections**
83 **393.1700 to 393.1715. Any rule or portion of a rule, as that term is defined in section**
84 **536.010, that is created under the authority delegated in this section shall become effective**
85 **only if it complies with and is subject to all of the provisions of chapter 536 and, if**
86 **applicable, section 536.028. This section and chapter 536 are nonseverable and if any of**
87 **the powers vested with the general assembly pursuant to chapter 536 to review, to delay**
88 **the effective date, or to disapprove and annul a rule are subsequently held**
89 **unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted**
90 **after August 28, 2021, shall be invalid and void.**

394.120. 1. No person shall become a member of a cooperative unless such person shall
2 agree to use electric energy furnished by the cooperative when such electric energy shall be
3 available through its facilities. The bylaws of a cooperative may provide that any person,
4 including an incorporator, shall cease to be a member thereof if he or she shall fail or refuse to
5 use electric energy made available by the cooperative or if electric energy shall not be made
6 available to such person by the cooperative within a specified time after such person shall have
7 become a member thereof. Membership in the cooperative shall not be transferable, except as
8 provided in the bylaws. The bylaws may prescribe additional qualifications and limitations in
9 respect of membership.

10 2. An annual meeting of the members shall be held at such time as shall be provided in
11 the bylaws.

12 3. Special meetings of the members may be called by the board of directors, by any three
13 directors, by not less than ten percent of the members, or by the president.

14 4. Meetings of members shall be held at such place as may be provided in the bylaws.
15 In the absence of any such provisions, all meetings shall be held in the city or town in which the
16 principal office of the cooperative is located.

17 5. Except as herein otherwise provided, written or printed notice stating the time and
18 place of each meeting of members and, in the case of a special meeting, the purpose or purposes

19 for which the meeting is called, shall be given to each member, either personally or by mail, not
20 less than ten nor more than twenty-five days before the date of the meeting.

21 6. Two percent of the first two thousand members and one percent of the remaining
22 members, present in person, or if the bylaws so provide, participating electronically or by mail,
23 shall constitute a quorum for the transaction of business at all meetings of the members, unless
24 the bylaws prescribe the presence of a greater percentage of the members for a quorum. If less
25 than a quorum is present at any meeting, a majority of those present in person may adjourn the
26 meeting from time to time without further notice.

27 7. Each member shall be entitled to one vote on each matter submitted to a vote at a
28 meeting. Voting shall be in person, but, if the bylaws so provide, may also be by proxy, by
29 electronic means, by mail, or any combination thereof. If the bylaws provide for voting by
30 proxy, by electronic means, or by mail, they shall also prescribe the conditions under which
31 proxy, electronic, or mail voting shall be exercised. In any event, no person shall vote as proxy
32 for more than two members at any meeting of the members.

33 **8. Notwithstanding the provisions of subsections 2 and 7 of this section, the board**
34 **of directors shall have the power to set the time and place of the annual meeting and also**
35 **to provide for voting by proxy, electronic means, by mail, or any combination thereof, and**
36 **to prescribe the conditions under which such voting shall be exercised. The meeting**
37 **requirement provided in this section may be satisfied through virtual means. The**
38 **provisions of this subsection shall expire on August 28, 2022.**

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

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

6 (2) An agricultural lien;

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

8 (4) A consignment;

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

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

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

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

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

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

18 (3) A statute of another state, a foreign country, or a governmental unit of another state
19 or a foreign country, other than a statute generally applicable to security interests, expressly
20 governs creation, perfection, priority, or enforcement of a security interest created by the state,
21 country, or governmental unit; or

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

24 (d) This article does not apply to:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

50 (B) Fixtures in section 400.9-334;

51 (C) Fixture filings in sections 400.9-501, 400.9-502, 400.9-512, 400.9-516 and 400.9-
52 519; and

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

54 (12) An assignment of a claim arising in tort, other than a commercial tort claim, but
55 sections 400.9-315 and 400.9-322 apply with respect to proceeds and priorities in proceeds; [øø]

56 (13) An assignment of a deposit account in a consumer transaction, but sections 400.9-
57 315 and 400.9-322 apply with respect to proceeds and priorities in proceeds; [øø]

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

60 (15) An assignment of a claim or right to receive benefits under a special needs trust as
61 described in 42 U.S.C. Section 1396p(d)(4), as amended from time to time; [øø]

62 (16) A transfer by a government or governmental subdivision or agency; **or**

63 **(17) The creation, perfection, priority, or enforcement of any sale, assignment of,**
64 **pledge of, security interest in, or other transfer of, any interest or right or portion of any**
65 **interest or right in any energy transition property, as defined in section 393.1700.**

523.262. 1. Except as set forth in subsection 2 of this section, the power of eminent
2 domain shall only be vested in governmental bodies or agencies whose governing body is elected
3 or whose governing body is appointed by elected officials or in an urban redevelopment
4 corporation operating pursuant to a redevelopment agreement with the municipality for a
5 particular redevelopment area, which agreement was executed prior to or on December 31, 2006.

6 2. A private utility company, public utility, rural electric cooperative, municipally owned
7 utility, pipeline, railroad or common carrier shall have the power of eminent domain as may be
8 granted pursuant to the provisions of other sections of the revised statutes of Missouri. For the
9 purposes of this section, the term "common carrier" shall not include motor carriers, contract
10 carriers, or express companies. Where a condemnation by such an entity results in a displaced
11 person, as defined in section 523.200, the provisions of subsections 3 and 6 to 10 of section
12 523.205 shall apply unless the condemning entity is subject to the relocation assistance
13 provisions of the federal Uniform Relocation Assistance Act.

14 3. Any entity with the power of eminent domain and pursuing the acquisition of property
15 for the purpose of constructing a power generation facility after December 31, 2006, after
16 providing notice in a newspaper of general circulation in the county where the facility is to be
17 constructed, shall conduct a public meeting disclosing the purpose of the proposed facility prior
18 to making any offer to purchase property in pursuit thereof or, alternatively, shall provide the
19 property owner with notification of the identity of the condemning authority and the proposed
20 purpose for which the condemned property shall be used at the time of making the initial offer.

21 **4. (1) Notwithstanding the provisions of subsection 2 of this section, no entity shall**
 22 **have the power of eminent domain under the provisions of this section for the purpose of**
 23 **constructing above-ground merchant lines.**

24 **(2) For the purpose of this subsection, the following terms mean:**

25 **(a) "Entity", a utility company that does not provide service to end-use customers**
 26 **or provide retail service in Missouri, or does not collect its costs to provide service under**
 27 **a regional transmission organization tariff, regardless of whether it has received a**
 28 **certificate of convenience and necessity from the public service commission under section**
 29 **393.170;**

30 **(b) "Merchant line", a high-voltage direct current electric transmission line that**
 31 **does not provide for the erection of electric substations at intervals of less than fifty miles,**
 32 **which substations are necessary to accommodate both the purchase and sale to persons**
 33 **located in this state of electricity generated or transmitted by such entity.**

34 **(3) This subsection shall apply to any property or easement acquisition started on**
 35 **or after August 28, 2021.**

36 **(4) This subsection shall not apply to any rural electric cooperative organized or**
 37 **operating under the provisions of chapter 394, or to any corporation organized on a**
 38 **nonprofit or a cooperative basis as described in subsection 1 of section 394.200, or to any**
 39 **electrical corporation operating under a cooperative business plan as described in**
 40 **subsection 2 of section 393.110.**

2 ~~[393.1073. 1. There is hereby established the "Task Force on Wind~~
 3 ~~Energy", which shall be composed of the following members:~~

4 ~~(1) Three members of the house of representatives, with two appointed~~
 5 ~~by the speaker of the house of representatives and one appointed by the minority~~
 6 ~~floor leader of the house of representatives;~~

7 ~~(2) Three members of the senate, with two appointed by the president pro~~
 8 ~~tempore of the senate and one appointed by the minority floor leader of the~~
 9 ~~senate; and~~

10 ~~(3) Two representatives from Missouri county governments with~~
 11 ~~experience in wind energy valuations, with one being a currently elected county~~
 12 ~~assessor to be appointed by the speaker of the house of representatives, and one~~
 13 ~~being a currently elected county clerk to be appointed by the president pro~~
 14 ~~tempore of the senate.~~

15 ~~2. The task force shall conduct public hearings and research, and shall~~
 16 ~~compile a report for delivery to the general assembly by no later than December~~
 17 ~~31, 2019. Such report shall include information on the following:~~

18 ~~(1) The economic benefits and drawbacks of wind turbines to local~~
 19 ~~communities and the state;~~

- 19 ~~————— (2) The fair, uniform, and standardized assessment and taxation of wind~~
20 ~~turbines and their connected equipment owned by a public utility company at the~~
21 ~~county level in all counties;~~
- 22 ~~————— (3) Compliance with existing federal and state programs and regulations;~~
23 ~~and~~
- 24 ~~————— (4) Potential legislation that will provide a uniform assessment and~~
25 ~~taxation methodology for wind turbines and their connected equipment owned~~
26 ~~by a public utility company that will be used in every county of Missouri.~~
- 27 ~~————— 3. The task force shall meet within thirty days after its creation and shall~~
28 ~~organize by selecting a chairperson and vice chairperson, one of whom shall be~~
29 ~~a member of the senate and the other a member of the house of representatives.~~
30 ~~Thereafter, the task force may meet as often as necessary in order to accomplish~~
31 ~~the tasks assigned to it. A majority of the task force shall constitute a quorum,~~
32 ~~and a majority vote of such quorum shall be required for any action.~~
- 33 ~~————— 4. The staff of house research and senate research shall provide necessary~~
34 ~~clerical, research, fiscal, and legal services to the task force, as the task force may~~
35 ~~request.~~
- 36 ~~————— 5. The members of the task force shall serve without compensation, but~~
37 ~~any actual and necessary expenses incurred in the performance of the task force's~~
38 ~~official duties by the task force, its members, and any staff assigned to the task~~
39 ~~force shall be paid from the joint contingent fund.~~
- 40 ~~————— 6. This section shall expire on December 31, 2019.]~~

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