

HCS HB 734 -- MO ELECTRICITY BILL REDUCTION ACT (O'Donnell)

COMMITTEE OF ORIGIN: Standing Committee on Financial Institutions

This bill specifies that axillary power may be purchased on a wholesale basis for use at an electric generation facility located in Cass County which began operating prior to August 28, 2021, and is operated as an independent power producer.

Currently, the Public Service Commission may approve a special rate, outside of a general rate proceeding, not based on the cost of service for electrical services provided to certain facilities if the Commission determines that but for the special rate the facility would not commence operations and that the special rate is in the best interest of the state. This bill changes the facilities that qualify for the special rates to include a facility whose primary industry is the processing of primary metals.

This bill defines "securitized utility tariff bonds" as bonds, debentures, notes, certificates of participation, certificates of beneficial interest, certificates of ownership, or other evidence of indebtedness or ownership that are issued by an electrical corporation or an assignee pursuant to a financing order, the proceeds of which are used directly or indirectly to recover, finance, or refinance commission-approved energy transition costs and financing costs, and that are secured by or payable from energy transition property.

Electrical corporations may apply to the Public Service Commission for a financing order authorizing the:

- (1) Issuance of bonds;
- (2) Collection of securitized utility tariff charges on customer bills (which are separate from the electrical corporation's base rates) to finance costs related to the retirement of an electric generating facility; and
- (3) Creation of securitized utility tariff property following the retirement of an electric generating facility.

The Commission may issue a financing order, following notice and a hearing, if the Commission finds that such order meets certain conditions outlined in the bill. The pricing of securitized utility tariff bonds must lower present costs to customers. Simultaneously with the imposition of securitized utility tariff charges, a financing order must require the electrical corporation to reduce its rates through a reduction in base rates or a negative rider on customer bills in an amount equal to the revenue

requirement associated with the electrical corporation's assets being financed by securitized utility tariff bonds.

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

The Commission will have the authority to apply or modify any billing mechanism designed to recover security utility tariff charges, investigate compliance with the financing order, or impose regulatory sanctions against an electrical corporation for failing to comply with the terms of a financing order. Further, the Commission may not refuse to allow the recovery of costs associated with the retirement of electric generating facilities solely because such costs have been financed through a mechanism other than securitized utility tariff bonds. The bill authorizes the Commission to have powers and duties in addition to those already specified under law. The Commission, in a financing order and subject to the issuance advice letter process, shall afford the electrical corporation flexibility in establishing the terms and conditions for the securitized utility tariff bonds to accommodate changes in market conditions.

Further, a financing order is a final order of the Commission. Any party aggrieved by the issuance of a financing order may petition for suspension and review of the order only in the court of appeals with jurisdiction coextensive with the Commission's location. The court must hear and determine the action as expeditiously as practicable.

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

and other financing costs.

Electrical corporations can petition the Public Service Commission for a financing order to securitized qualified extraordinary costs. These costs would be a result from an extraordinary situation such as a tornado. The criteria required for the petition is outlined in the bill.

The electric corporation must have a financial advisor and bond counsel. The Commission can engage the financial advisor and counsel as it sees fit. All expenses associated incurred for the services of the financial advisor and counsel shall be included in the securitized utility tariff charge.

Securitized utility tariff property must exist until all securitized utility tariff bonds are paid in full and financing costs have been recovered. Securitized utility tariff property may be transferred, sold, conveyed, or assigned to certain successors or assignees specified in the bill. A successor to an electrical corporation must perform and satisfy all obligations of, and have the same duties and rights under a financing order as the electrical corporation to which the financing order applies.

Banks, trust companies, savings and loan associations, insurance companies, executors, administrators, guardians, trustees, and other fiduciaries, including political subdivisions, may invest in securitized utility tariff bonds; however, securitized utility tariff bonds must not be considered the debt of the State, any county, municipality, or political subdivision. The State, or any political subdivision, may not take any action that impairs the value of securitized utility tariff property or reduce or alter securitized utility tariff charges until all securitized utility tariff bonds and financing costs are paid in full. An assignee or financing party that is not regulated by the Commission may not become subject to commission regulation as a result of engaging in any transaction under this act.

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

The bill also specifies requirements for any security interest in

securitized utility tariff property. A sale, assignment, or transfer of securitized utility tariff property is an absolute transfer, and may be created only when certain actions occur, as specified in the bill.