Bill Number: H.B. 2679

Sundareshan #2 Floor Amendment

Reference to: House engrossed bill

Amendment drafted by: Sawyer Bessler

FLOOR AMENDMENT EXPLANATION

1. **Requires the Arizona Corporation Commission (ACC) to establish a prudency review process to review the assets to be securitized by a public power entity, public service corporation or a member-owned cooperative.**

2. **Determines that the purpose of the prudency review is to ensure that the need for securitization is not a result of imprudent action by a public power entity, public service corporation or member-owned cooperative.**

3. **Allows the ACC to adopt rules to implement the prudency review.**

4. **Requires a servicer, on January 1 and June 1 of each year, to file a report with the governing body of the public power entity or the ACC that includes the total number of transition bonds that were issued and the total amount of payments that were collected from utility consumers.**

5. **Requires the governing body of a public power entity or the ACC to appoint an individual to serve as a consumer protection advocate who must:**
   a) **advise the public power entity or the ACC in securitization transactions, including marketing and pricing a transaction, bond negotiations and rate increases; and**
   b) **represent the public interest of electric customers of a public power entity or a public service corporation who use electric service in Arizona.**

6. **Adds, to the conditions that determine that the transition benefit test is satisfied, the showing of an outlined condition and that the projected net present value over the term of the transition bonds of the financing charges minus, to the extent applicable, the revenue requirement credits that arise from any deferred income tax balances associated with the transition cost will be smaller in absolute value than the projected net present value that is calculated at the same discount rate of the portion of the annual revenue requirements of the applicant that is associated with the transition cost, if the transition cost were to be financed directly by the applicant.**

Amendment explanation prepared by Sawyer Bessler
05/05/2025

7. **Removes, from the definition of *transition asset,* that the transition asset is planned to be sold by the public power entity or applicant as of the date of the financing resolution or application.**

8. **Adds, to the definition of *transition asset*, an asset that, as of the date of the financing resolution or application, is contracted to be sold by the public power entity for at least 80 percent of the transition asset's book value within 10 years after the date of the application or financing resolution.**

9. **Modifies the definition of *significant event recovery costs* to stipulate that the outlined significant events occurred due to forces or actions outside of the applicant's control.**

10. **Stipulates that *transition costs* relating to public service corporations do not include any monetary penalty, fine or forfeiture that is assessed against a public service corporation by a governmental agency or court under a federal or state law, rule or regulation.**

11. **Modifies the statement of public policy.**

Fifty-seventh Legislature
First Regular Session

Sundareshan
H.B. 2679

SUNDARESHAN #2 FLOOR AMENDMENT
SENATE AMENDMENTS TO H.B. 2679
(Reference to House engrossed bill)

Amendment instruction key:

[GREEN UNDERLINING IN BRACKETS] indicates text added to statute or previously enacted session law.

[Green underlining in brackets] indicates text added to new session law or text restoring existing law.

[~~GREEN STRIKEOUT IN BRACKETS~~] indicates new text removed from statute or previously enacted session law.

[~~Green strikeout in brackets~~] indicates text removed from existing statute, previously enacted session law or new session law.

<<Green carets>> indicate a section added to the bill.

<<~~Green strikeout in carets~~>> indicates a section removed from the bill.

The bill as proposed to be amended is reprinted as follows:

Section 1. Title 30, Arizona Revised Statutes, is amended by adding chapter 7, to read:

CHAPTER 7
UTILITY SECURITIZATION
ARTICLE 1. GENERAL PROVISIONS

30-901. Definitions

IN THIS CHAPTER, UNLESS THE CONTEXT OTHERWISE REQUIRES:

1. "ANCILLARY AGREEMENT" MEANS ANY OF THE FOLLOWING:

(a) A BOND.

(b) AN INSURANCE POLICY.

(c) A LETTER OF CREDIT.

(d) A RESERVE ACCOUNT.

(e) AN INTEREST RATE LOCK OR SWAP ARRANGEMENT.

(f) A HEDGING ARRANGEMENT.

(g) A LIQUIDITY OR CREDIT SUPPORT ARRANGEMENT.

(h) ANY OTHER SIMILAR AGREEMENT, INSTRUMENT OR ARRANGEMENT THAT IS ENTERED INTO IN CONNECTION WITH THE ISSUANCE OF TRANSITION BONDS AND THAT IS DESIGNED TO PROMOTE THE CREDIT QUALITY AND MARKETABILITY OF THE TRANSITION BONDS OR TO REDUCE OR MITIGATE THE RISK OF AN INCREASE IN ANY FINANCING COST.

2. "CUSTOMER" MEANS A PERSON OR ENTITY WITHIN THIS STATE TO WHOM ONE OF THE FOLLOWING APPLIES:

(a) REGARDLESS OF THE IDENTITY OF THE PERSON'S OR ENTITY'S ELECTRIC GENERATION SUPPLIER AND WITHOUT REGARD TO WHETHER THE PERSON OR ENTITY ALSO RECEIVES SERVICE FROM OTHER ELECTRIC SERVICE PROVIDERS, THE PERSON OR ENTITY RECEIVES RETAIL ELECTRIC UTILITY SERVICE, WHETHER DIRECTLY OR INDIRECTLY, WHETHER BUNDLED OR UNBUNDLED AND WHETHER SUPPLY OR DELIVERY, OR BOTH, FROM ANY OF THE FOLLOWING:

(i) A PUBLIC POWER ENTITY.

(ii) A SUCCESSOR TO A PUBLIC POWER ENTITY.

(iii) ANY OTHER PERSON OR ENTITY, PUBLIC SERVICE CORPORATION, COOPERATIVE OR MUNICIPAL ENTITY THAT ASSUMES THE RESPONSIBILITY TO PROVIDE ELECTRIC UTILITY SERVICE IN A PUBLIC POWER ENTITY'S SERVICE TERRITORY AS THE SERVICE TERRITORY EXISTS ON THE DATE THE GOVERNING BODY OF A PUBLIC POWER ENTITY ADOPTS A FINANCING RESOLUTION.

(b) REGARDLESS OF THE IDENTITY OF THE PERSON'S OR ENTITY'S ELECTRIC GENERATION SUPPLIER AND WITHOUT REGARD TO WHETHER THE PERSON OR ENTITY ALSO RECEIVES SERVICE FROM OTHER ELECTRIC SERVICE PROVIDERS, THE PERSON OR ENTITY MAINTAINS AN INTERCONNECTION WITH THE ELECTRIC DISTRIBUTION FACILITIES OF A PUBLIC POWER ENTITY THAT ALLOWS THAT PERSON OR ENTITY TO RECEIVE RETAIL ELECTRIC UTILITY SERVICE, WHETHER BUNDLED OR UNBUNDLED AND WHETHER SUPPLY OR DELIVERY, OR BOTH, FROM ANY OF THE FOLLOWING:

(i) A PUBLIC POWER ENTITY.

(ii) A SUCCESSOR TO A PUBLIC POWER ENTITY.

(iii) ANY OTHER PERSON OR ENTITY, PUBLIC SERVICE CORPORATION, COOPERATIVE OR MUNICIPAL ENTITY THAT ASSUMES THE RESPONSIBILITY TO PROVIDE ELECTRIC UTILITY SERVICE IN A PUBLIC POWER ENTITY'S SERVICE TERRITORY AS THE SERVICE TERRITORY EXISTS ON THE DATE THE GOVERNING BODY OF A PUBLIC POWER ENTITY ADOPTS A FINANCING RESOLUTION.

(c) WITHOUT REGARD TO WHETHER THE PERSON OR ENTITY ALSO RECEIVES SERVICE FROM OTHER ELECTRIC SERVICE PROVIDERS, THE PERSON OR ENTITY IS A COOPERATIVE THAT PROVIDES RETAIL ELECTRIC SERVICE TO MEMBERS AND THAT RECEIVES ELECTRICITY, WHETHER AT RETAIL OR A WHOLESALE PRICE, FROM A PUBLIC POWER ENTITY THAT PROVIDES WHOLESALE ELECTRIC SUPPLY AND TRANSMISSION SERVICES.

3. "FINANCING CHARGES" MEAN NONBYPASSABLE CHARGES THAT ARE PAID OR PAYABLE BY ALL CUSTOMERS TO A QUALIFIED SPECIAL PURPOSE ENTITY TO RECOVER ONGOING FINANCING COSTS IN ACCORDANCE WITH THIS CHAPTER. FINANCING CHARGES CAN BE ADJUSTED FROM TIME TO TIME IN ACCORDANCE WITH THE TRUE-UP MECHANISM.

4. "FINANCING COST":

(a) MEANS ALL COSTS THAT ARE INCURRED BY A QUALIFIED SPECIAL PURPOSE ENTITY TO ISSUE, RATE, MARKET, PLACE, AUTHORIZE, SUPPORT, REPAY, REFINANCE, SERVICE, ADMINISTER OR REFUND TRANSITION BONDS, WHETHER INCURRED AT, BEFORE OR AFTER THE TRANSITION BONDS ARE ISSUED OR BEFORE OR AFTER THE MATURITY DATE OF THE TRANSITION BONDS.

(b) INCLUDES ANY OF THE FOLLOWING:

(i) THE PRINCIPAL AND INTEREST AND ANY ACQUISITION, DEFEASANCE, REDEMPTION OR OTHER PREMIUMS THAT ARE PAYABLE ON TRANSITION BONDS.

(ii) THE COSTS, FEES AND EXPENSES RELATED TO ISSUING, RATING, MARKETING, PLACING, AUTHORIZING, SUPPORTING, REPAYING, REFINANCING, SERVICING, ADMINISTERING OR REFUNDING TRANSITION BONDS, INCLUDING ANY COSTS THAT ARE INCURRED FOR IMPLEMENTING THE TRUE-UP MECHANISM.

(iii) THE COSTS, FEES AND EXPENSES OF TRUSTEES OR SIMILAR FIDUCIARIES, ATTORNEYS, ACCOUNTANTS, SERVICERS, RATING AGENCIES, DEPOSITORY AND OTHER AGENTS OR OTHER PROFESSIONALS.

(iv) THE COSTS THAT ARE INCURRED UNDER AN ANCILLARY AGREEMENT AND ANY AMOUNT THAT IS REQUIRED TO REFUND OR REPLENISH A RESERVE ACCOUNT OR OTHER ACCOUNT ESTABLISHED UNDER AN ANCILLARY AGREEMENT OR OTHER DOCUMENT RELATING TO TRANSITION BONDS.

(v) THE COSTS OF FORMING, OPERATING, ADMINISTERING AND DISSOLVING A QUALIFIED SPECIAL PURPOSE ENTITY.

(vi) THE COSTS, FEES AND EXPENSES THAT ARE INCURRED TO OBTAIN ANY CONSENT, RELEASE, WAIVER OR APPROVAL FROM ANY HOLDER OF AN EXISTING OBLIGATION OF A PUBLIC POWER ENTITY THAT IS NECESSARY TO PERMIT THE ISSUANCE OF TRANSITION BONDS OR THE RETIREMENT, ABANDONMENT OR REDUCTION IN THE UNDEPRECIATED BOOK VALUE OF A TRANSITION ASSET IN CONNECTION WITH A TRANSACTION UNDER THIS CHAPTER.

(vii) THE COSTS THAT ARE INCURRED TO PROTECT THE STATUS OF TRANSITION PROPERTY, THE RIGHT TO IMPOSE AND COLLECT FINANCING CHARGES OR THE RIGHT TO RECEIVE FINANCING REVENUES, INCLUDING COSTS RELATED TO ANY JUDICIAL OR OTHER PROCEEDINGS THAT ARE NECESSARY TO PROTECT THE TRANSITION PROPERTY OR COLLECT FINANCING REVENUES.

(viii) FEDERAL, STATE AND OTHER TAXES THAT ARE IMPOSED ON THE PUBLIC POWER ENTITY OR THE QUALIFIED SPECIAL PURPOSE ENTITY WITH RESPECT TO THE FINANCING CHARGES OR FINANCING REVENUES WITHOUT DUPLICATION AND ANY OTHER FEES, CHARGES OR ASSESSMENTS THAT ARE IMPOSED ON TRANSITION BONDS.

5. "FINANCING PARTY" MEANS A HOLDER OF TRANSITION BONDS AND ANY TRUSTEE, COLLATERAL AGENT OR OTHER PERSON ACTING FOR THE BENEFIT OF THE HOLDER.

6. "FINANCING RESOLUTION" MEANS A RESOLUTION THAT IS DESCRIBED IN SECTION 30-903 AND THAT IS ADOPTED BY THE GOVERNING BODY OF A PUBLIC POWER ENTITY THAT AUTHORIZES A SECURITIZATION TRANSACTION.

7. "FINANCING REVENUES" MEANS ANY MONEY AND OTHER PROPERTY RECEIVED OR TO BE RECEIVED, DIRECTLY OR INDIRECTLY, IN PAYMENT OF OR ON ACCOUNT OF FINANCING CHARGES, INCLUDING ALL OF THE PROCEEDS OF THE INVESTMENT THEREOF.

8. "NONBYPASSABLE" MEANS THAT THE PAYMENT OF THE FINANCING CHARGES MAY NOT BE AVOIDED AND SHALL BE PAID BY A CUSTOMER IF, AT THE TIME INVOICES OR BILLS ARE RENDERED, TRANSITION BONDS ARE OUTSTANDING OR THE FINANCING COSTS HAVE NOT BEEN RECOVERED IN FULL. FINANCING CHARGES SHALL BE PAID REGARDLESS OF WHETHER:

(a) THE CUSTOMER IS LIABLE TO A PUBLIC POWER ENTITY FOR ANY CHARGES FOR ELECTRIC SERVICE.

(b) THE SYSTEM ASSETS SERVING THE CUSTOMER CONTINUE TO BE OWNED BY THE APPLICABLE PUBLIC POWER ENTITY.

9. "ONGOING FINANCING COSTS":

(a) MEANS ALL FINANCING COSTS, INCLUDING THE PRINCIPAL AND INTEREST THAT ARE PAYABLE ON THE TRANSITION BONDS.

(b) DOES NOT INCLUDE UPFRONT FINANCING COSTS THAT ARE PAID BY THE QUALIFIED SPECIAL PURPOSE ENTITY DIRECTLY OR INDIRECTLY FROM THE PROCEEDS OF THE ISSUANCE OF TRANSITION BONDS.

10. "PUBLIC POWER ENTITY" MEANS ANY MUNICIPAL CORPORATION OR POLITICAL SUBDIVISION THAT OWNS AND OPERATES FACILITIES FOR THE GENERATION, TRANSMISSION OR DISTRIBUTION OF ELECTRIC ENERGY FOR SALE TO RETAIL CUSTOMERS IN THIS STATE.

11. "QUALIFIED SPECIAL PURPOSE ENTITY":

(a) MEANS A LEGAL ENTITY THAT IS ESTABLISHED BY AND WHOLLY OWNED, DIRECTLY OR INDIRECTLY, BY A PUBLIC POWER ENTITY IN WHICH AN INTEREST IN TRANSITION PROPERTY IS CREATED PURSUANT TO THIS CHAPTER AND WHICH ISSUES TRANSITION BONDS THAT ARE SECURED BY TRANSITION PROPERTY.

(b) INCLUDES ANY SUCCESSOR TO OR AN ASSIGNEE, OTHER THAN AS SECURITY, OF THE LEGAL ENTITY.

12. "SECURITIZATION PROPOSAL" MEANS A REPORT THAT IS PREPARED BY THE PUBLIC POWER ENTITY PURSUANT TO SECTION 30-903.

13. "SERVICER":

(a) MEANS A PERSON OR ENTITY THAT IS AUTHORIZED AND REQUIRED BY A CONTRACT, TARIFF OR OTHERWISE TO DO ALL OF THE FOLLOWING:

(i) CALCULATE, BILL OR COLLECT FINANCING CHARGES ON BEHALF OF A QUALIFIED SPECIAL PURPOSE ENTITY.

(ii) PREPARE PERIODIC REPORTS ON THE BILLING OF FINANCING CHARGES AND THE COLLECTION OF FINANCING REVENUES.

(iii) RENDER OTHER SERVICES RELATED TO FINANCING CHARGES AND THE TRANSITION PROPERTY, INCLUDING ADMINISTERING THE TRUE-UP MECHANISM.

(b) INCLUDES:

(i) A PUBLIC POWER ENTITY.

(ii) A PUBLIC SERVICE CORPORATION OR A COOPERATIVE.

(iii) A THIRD-PARTY SERVICER THAT COLLECTS FINANCING CHARGES UNDER A TRANSITION BILLING SERVICES TARIFF.

14. "SIGNIFICANT EVENT RECOVERY COSTS" MEANS COSTS, FEES AND EXPENSES THAT ARE INCURRED OR TO BE INCURRED THROUGH THE DATE OF ADOPTION OF A FINANCING RESOLUTION BY A PUBLIC POWER ENTITY AND THAT ARE ASSOCIATED WITH OR THAT ARISE FROM WEATHER, WILDFIRE OR PUBLIC HEALTH EMERGENCY EVENTS OR INCIDENTS OR OTHER EVENTS OR INCIDENTS THAT CAUSE OR THREATEN TO CAUSE SIGNIFICANT LOSS OF LIFE, INJURY TO PERSON OR PROPERTY, HUMAN SUFFERING OR FINANCIAL LOSS [<u>BY FORCES OR ACTION OUTSIDE OF THE PUBLIC POWER ENTITY'S CONTROL</u>].

15. "THIRD-PARTY SERVICER" MEANS A PERSON, OTHER THAN A PUBLIC POWER ENTITY, THAT IS ENGAGED TO ACT AS A SERVICER FOR TRANSITION BONDS IN THE EVENT A PUBLIC POWER ENTITY IS UNABLE TO ACT AS A SERVICER.

16. "TRANSITION ASSET" MEANS ANY ELECTRIC POWER GENERATION, TRANSMISSION OR DISTRIBUTION FACILITY, INCLUDING OTHER PROPERTY OR EQUIPMENT USED IN CONNECTION WITH SUCH GENERATION, TRANSMISSION OR DISTRIBUTION OF THE PUBLIC POWER ENTITY THAT IS IDENTIFIED IN A SECURITIZATION PROPOSAL AND FINANCING RESOLUTION, AND THAT EITHER:

(a) HAS BEEN RETIRED AND NO LONGER PROVIDES SERVICE[~~, IN WHOLE OR IN PART~~].

(b) AS OF THE DATE OF THE FINANCING RESOLUTION, IS PLANNED TO BE RETIRED, [~~SOLD,~~] DISPOSED OF, ABANDONED OR OTHERWISE REMOVED FROM SERVICE BY THE PUBLIC POWER ENTITY[~~, IN WHOLE OR IN PART,~~] WITHIN [~~TEN~~][FIVE] YEARS AFTER THE DATE OF THE FINANCING RESOLUTION.

(c) HAS OTHERWISE BEEN DESTROYED, DAMAGED OR RENDERED INOPERABLE[~~, IN WHOLE OR IN PART,~~] BY FORCES OR ACTION OUTSIDE OF THE PUBLIC POWER ENTITY'S REASONABLE CONTROL.

17. "TRANSITION ASSET RETIREMENT COSTS":

(a) MEANS THE TOTAL OR ANY PORTION OF ANY UNDEPRECIATED VALUE OR UNRECOVERED BALANCE OF ANY TRANSITION ASSET THAT WILL BE PERMANENTLY REDUCED WHEN TRANSITION BONDS ARE ISSUED AND A PUBLIC POWER ENTITY RECEIVES THE TRANSFER OF FUNDS PURSUANT TO SECTION 30-905, SUBSECTION A.

(b) INCLUDES ANY COSTS, FEES AND EXPENSES THAT ARE INCURRED TO RETIRE, ABANDON OR REDUCE THE UNDEPRECIATED BOOK VALUE OF THE TRANSITION ASSET IN CONNECTION WITH A TRANSACTION THAT INCLUDES THE DECOMMISSION, REMEDIATION OR RESTORATION COSTS ASSOCIATED WITH THE TRANSITION ASSET.

18. "TRANSITION BENEFIT TEST" MEANS THE ASSESSMENT DESCRIBED IN SECTION 30-903, SUBSECTION E, PARAGRAPH 2.

19. "TRANSITION BILLING SERVICES TARIFF":

(a) MEANS A TARIFF, RATE OR ORDER OF A PUBLIC POWER ENTITY THAT AUTHORIZES THE PUBLIC POWER ENTITY OR OTHER PERSON TO ACT AS A SERVICER.

(b) DOES NOT SPECIFY OR ALTER THE AMOUNT OF ANY FINANCING CHARGES NOR GRANT THE SERVICER ANY RIGHT, TITLE OR INTEREST IN FINANCING REVENUES.

20. "TRANSITION BONDS" MEANS BONDS, NOTES OR OTHER EVIDENCES OF INDEBTEDNESS THAT ARE ISSUED BY A QUALIFIED SPECIAL PURPOSE ENTITY AND THAT ARE DESCRIBED IN A SECURITIZATION PROPOSAL AND FINANCING RESOLUTION, THE PROCEEDS OF WHICH ARE USED, DIRECTLY OR INDIRECTLY, TO RECOVER, FINANCE, REFINANCE OR REFUND TRANSITION COSTS AND UPFRONT FINANCING COSTS, AND THAT ARE DIRECTLY OR INDIRECTLY PAYABLE FROM, OR SECURED BY, TRANSITION PROPERTY, FINANCING CHARGES OR FINANCING REVENUES.

21. "TRANSITION COSTS" INCLUDES ANY OF THE FOLLOWING:

(a) TRANSITION ASSET RETIREMENT COSTS.

(b) UNRECOVERED FUEL COSTS.

(c) SIGNIFICANT EVENT RECOVERY COSTS.

22. "TRANSITION PROPERTY":

(a) MEANS THE PROPERTY RIGHTS AND PROPERTY INTERESTS OF A QUALIFIED SPECIAL PURPOSE ENTITY, ANY HOLDERS OF TRANSITION BONDS WHEN ISSUED OR ANY TRANSFEREE OR ASSIGNEE THEREOF THAT ARE CREATED OR RECOGNIZED AS A RESULT OF A TRANSACTION AUTHORIZED BY THIS CHAPTER.

(b) INCLUDES ANY OF THE FOLLOWING:

(i) ALL RIGHTS AND INTERESTS OF A QUALIFIED SPECIAL PURPOSE ENTITY UNDER A FINANCING RESOLUTION.

(ii) THE RIGHT TO IMPOSE, CHARGE, COLLECT AND RECEIVE FINANCING CHARGES, INCLUDING THE RIGHT TO CALCULATE, IMPOSE, CHARGE, COLLECT AND RECEIVE FINANCING CHARGES AUTHORIZED UNDER THE FINANCING RESOLUTION AND TO OBTAIN PERIODIC ADJUSTMENTS TO THE FINANCING CHARGES PURSUANT TO THE TRUE-UP MECHANISM.

(iii) ALL RIGHT AND TITLE TO, AND ALL INTEREST IN, FINANCING REVENUES, REGARDLESS OF WHETHER THE REVENUES ARE BILLED, RECEIVED, COLLECTED OR MAINTAINED SEPARATELY FROM OR COMMINGLED WITH OTHER REVENUES OR MONIES OF ANY TYPE AND REGARDLESS OF WHETHER SUCH REVENUES ARE BILLED OR COLLECTED BY A SERVICER.

(iv) ALL RESERVES THAT ARE ESTABLISHED IN CONNECTION WITH THE TRANSITION BONDS OR THE TRANSITION PROPERTY.

(v) ALL RIGHTS OF A QUALIFIED SPECIAL PURPOSE ENTITY UNDER ANY ANCILLARY AGREEMENT.

(c) DOES NOT INCLUDE AN ASSET OF A PUBLIC POWER ENTITY.

23. "TRUE-UP MECHANISM" MEANS A FORMULA THAT IS DESCRIBED IN A SECURITIZATION PROPOSAL AND ESTABLISHED BEFORE OR CONCURRENT WITH THE ISSUANCE OF TRANSITION BONDS AND THAT ADJUSTS FINANCING CHARGES OVER TIME TO CORRECT FOR ANY OVERCOLLECTION OR UNDERCOLLECTION OF FINANCING REVENUES SO THAT A QUALIFIED SPECIAL PURPOSE ENTITY TIMELY AND COMPLETELY RECOVERS ALL ONGOING FINANCING COSTS.

24. "UNIT FINANCING CHARGE" MEANS THE SHARE OR PORTION OF THE FINANCING CHARGES THAT ARE IMPOSED ON, PAID BY AND COLLECTED FROM A PARTICULAR CUSTOMER OR FROM EVERY CUSTOMER IN A PARTICULAR GROUP OF CUSTOMERS.

25. "UNRECOVERED FUEL COSTS":

(a) MEANS:

(i) A PUBLIC POWER ENTITY'S UNRECOVERED AMOUNTS OF PREVIOUSLY INCURRED COSTS, FEES AND EXPENSES TO PURCHASE FUEL USED TO GENERATE ELECTRICITY.

(ii) A PUBLIC POWER ENTITY'S UNRECOVERED AMOUNTS OF PREVIOUSLY INCURRED COSTS, FEES AND EXPENSES TO PURCHASE ELECTRICITY OR CAPACITY OR ANY OTHER COMPONENT OF WHOLESALE ELECTRICITY TRANSACTIONS FROM A THIRD PARTY, INCLUDING THE COSTS OF PURCHASED POWER, THAT HAVE NOT YET BEEN COLLECTED FROM CUSTOMERS.

(b) INCLUDES FINANCING COSTS ON THE PUBLIC POWER ENTITY'S UNRECOVERED FUEL OR PURCHASED POWER BALANCES.

26. "UPFRONT FINANCING COSTS":

(a) MEANS THOSE FINANCING COSTS THAT ARE PAID, DIRECTLY OR INDIRECTLY FROM THE PROCEEDS OF TRANSITION BONDS, BY THE QUALIFIED SPECIAL PURPOSE ENTITY.

(b) INCLUDES ALL OR A PORTION OF THE COSTS OF DEVELOPING A SECURITIZATION PROPOSAL AND DESIGNING, MARKETING, OBTAINING RATINGS FOR AND ISSUING TRANSITION BONDS.

30-902. Statement of public policy

A. IT IS THE PUBLIC POLICY OF THIS STATE TO GAIN THE BENEFITS OF SECURITIZATION BY ESTABLISHING IRREVOCABLE FINANCING CHARGES THAT ARE PAYABLE TO A QUALIFIED SPECIAL PURPOSE ENTITY AND BY CREATING AND VESTING IN THE QUALIFIED SPECIAL PURPOSE ENTITY A PRESENT AND ALIENABLE PROPERTY INTEREST IN THE RESULTING FINANCING REVENUES. THOSE BENEFITS INCLUDE REDUCING ALL OF THE FOLLOWING:

1. THE UNRECOVERED COST OF TRANSITION ASSETS THAT ARE SUBJECT TO POTENTIAL RETIREMENT, ABANDONMENT, [~~SALE,~~] DISPOSITION[,] [~~OR~~] TRANSITION [OR OTHERWISE REMOVED FROM SERVICE] OR THAT HAVE BEEN DAMAGED OR DESTROYED, INCLUDING ASSOCIATED LIABILITIES.

2. THE UNRECOVERED COSTS OF FUEL OR PURCHASED POWER.

3. THE COSTS ARISING FROM OR RELATED TO WEATHER, WILDFIRE OR OTHER SIGNIFICANT EVENTS OR INCIDENTS THAT CAUSE OR THREATEN TO CAUSE SIGNIFICANT LOSS OF LIFE, INJURY TO PERSON OR PROPERTY, HUMAN SUFFERING OR FINANCIAL LOSS [BY FORCES OR ACTION OUTSIDE OF THE PUBLIC POWER ENTITY'S CONTROL].

B. THE USE OF LOW-COST SECURITIZED BORROWING BY A SEPARATE QUALIFIED SPECIAL PURPOSE ENTITY IS INTENDED TO ENABLE PUBLIC POWER ENTITIES TO ACHIEVE THE BENEFITS OF SECURITIZATION FOR CUSTOMERS BY REINVESTING CAPITAL NOW COMMITTED TO PAYING THOSE COSTS RELATED TO THE PRODUCTION AND DELIVERY OF ENERGY FROM NEW FACILITIES, RESOURCES OR OTHER ASSETS.

[C. AFFORDABILITY AND RELIABILITY OF THIS STATE'S ELECTRIC SYSTEM IS FUNDAMENTAL TO THE HEALTH AND WELFARE OF THIS STATE AND THIS STATE'S CITIZENRY AND ECONOMY. AS SECURITIZATION CREATES BROAD NEW AUTHORITY FOR ELECTRIC SERVICE PROVIDERS, IT IS IN THE BEST INTEREST OF THIS STATE AND THIS STATE'S ELECTRIC CUSTOMERS FOR THE GOVERNING BODY TO CONDUCT THE SECURITIZATION PROCESS TO ENSURE THAT THIS NEW FINANCIAL TOOL IS BEING USED PRUDENTLY AND IS NOT NEGATIVELY IMPACTING THE AFFORDABILITY OF ELECTRICITY FOR THIS STATE'S ELECTRIC CUSTOMERS.]

30-903. Securitization transactions; public meeting; notice; securitization proposal; financing resolution adoption; report

A. A PUBLIC POWER ENTITY MAY INITIATE A SECURITIZATION TRANSACTION BY PROVIDING PUBLIC NOTICE OF THE PUBLIC POWER ENTITY'S INTENT TO ADOPT A FINANCING RESOLUTION. THE PUBLIC NOTICE SHALL IDENTIFY THE DATE, TIME AND LOCATION OF THE PUBLIC MEETING OF THE GOVERNING BODY, WHICH SHALL OCCUR NOT LESS THAN THIRTY DAYS AND NOT MORE THAN SIXTY DAYS AFTER THE NOTICE IS

PUBLISHED. AFTER THE PUBLIC NOTICE IS PUBLISHED, THE PUBLIC POWER ENTITY SHALL MAKE THE SECURITIZATION PROPOSAL AVAILABLE AT THE PUBLIC POWER ENTITY'S MAIN OFFICE AND ON ITS PUBLICLY ACCESSIBLE WEBSITE.

B. THE PUBLIC POWER ENTITY SHALL PROVIDE THE PUBLIC NOTICE PRESCRIBED IN SUBSECTION A OF THIS SECTION BY COMPLETING ALL OF THE FOLLOWING:

1. ISSUING ONE PUBLICATION IN ONE OR MORE NEWSPAPERS OF GENERAL CIRCULATION WITHIN THE PUBLIC POWER ENTITY'S ELECTRIC SERVICE AREA.

2. SENDING NOTICE BY UNITED STATES MAIL TO THE PUBLIC POWER ENTITY'S STANDARD ELECTRIC RATE SCHEDULE CUSTOMERS OF RECORD.

3. SENDING NOTICE TO THE GOVERNING BODY OF EACH CITY, TOWN OR COUNTY WHERE A PUBLIC POWER ENTITY IS LOCATED IN WHOLE OR IN PART.

C. THE SECURITIZATION PROPOSAL SHALL:

1. IDENTIFY, AS APPLICABLE, ANY TRANSITION ASSETS, TRANSITION ASSET RETIREMENT COSTS, UNRECOVERED FUEL COSTS AND SIGNIFICANT EVENT RECOVERY COSTS. FOR THE PURPOSES OF THIS PARAGRAPH, "UNRECOVERED FUEL COSTS":

(a) INCLUDES AMOUNTS OF UNRECOVERED FUEL OR PURCHASED POWER EXPENSES WITH ASSOCIATED FINANCING COSTS.

(b) AS DETERMINED BY THE GOVERNING BODY, SHALL BE SIGNIFICANT AND ARISE FROM ANY OF THE FOLLOWING:

(i) SUPPLY SHORTAGES.

(ii) DISRUPTIONS IN TRANSPORTATION INFRASTRUCTURE OR SUPPLY CHAINS.

(iii) MARKET VOLATILITY.

(iv) SUBSTANTIAL CUSTOMER LOAD GROWTH.

(v) ANY OTHER REASONABLY UNFORESEEN CIRCUMSTANCE.

2. ESTIMATE THE TRANSITION COSTS AND FINANCING COSTS.

3. DESCRIBE THE EXPECTED CHARACTERISTICS OF THE TRANSITION BONDS.

4. PROVIDE THE PROJECTED FINANCING CHARGES AND EXPLAIN HOW THE FINANCING CHARGES WILL RESULT IN THE COLLECTION OF FINANCING REVENUES IN AMOUNTS SUFFICIENT BUT NOT GREATER THAN NECESSARY TO ENABLE THE TIMELY AND COMPLETE RECOVERY AND PAYMENT OF ALL ONGOING FINANCING COSTS.

5. ESTIMATE THE FINANCING CHARGES AND UNIT FINANCING CHARGES BEFORE THE FIRST APPLICATION OF THE TRUE-UP MECHANISM. THE UNIT FINANCING CHARGES MAY DIFFER BETWEEN CUSTOMERS AND GROUPS OF CUSTOMERS, BUT IF THAT OCCURS, EACH CUSTOMER GROUP AND HOW THE GROUP IS DEFINED SHALL BE DESCRIBED IN THE SECURITIZATION PROPOSAL. UNIT FINANCING CHARGES ARE DETERMINED AND IMPOSED WITHOUT REGARD TO WHETHER, OR TO WHAT EXTENT, A CUSTOMER USES THE SERVICES OF ANY PUBLIC POWER ENTITY DURING THE PERIOD IN WHICH A PARTICULAR UNIT FINANCING CHARGE WILL APPLY.

6. DESCRIBE THE PROPOSED TRUE-UP MECHANISM AND HOW THE TRUE-UP MECHANISM WILL ADJUST THE FINANCING CHARGES AND UNIT FINANCING CHARGES OVER TIME TO CORRECT FOR ANY OVERCOLLECTION OR UNDERCOLLECTION OF FINANCING REVENUES.

7. IDENTIFY THE QUALIFIED SPECIAL PURPOSE ENTITY.

8. PROVIDE A REPORT THAT CONCLUDES THAT THE TRANSITION BONDS ARE EXPECTED TO SATISFY THE CURRENT PUBLISHED CRITERIA FOR AN AAA RATING OR THE EQUIVALENT THAT IS PREPARED BY A SECURITIES FIRM EXPERIENCED IN UNDERWRITING AND BOND ISSUANCE.

9. IDENTIFY ANY ANTICIPATED ANCILLARY AGREEMENTS, INDIVIDUALLY OR BY DESCRIPTION.

10. DESCRIBE HOW THE PUBLIC POWER ENTITY PROPOSES TO PERMANENTLY REDUCE OR OFFSET THE VALUE OF EITHER:

(a) ANY UNDEPRECIATED TRANSITION ASSETS AND ANY ASSOCIATED REGULATORY ASSETS OR RECORDED LIABILITIES WITH RESPECT TO AN OFFERING OF TRANSITION BONDS TO RECOVER TRANSITION ASSET RETIREMENT COSTS.

(b) ANY REGULATORY ASSET OR RECORDED LIABILITY THAT IS ASSOCIATED WITH TRANSITION BONDS TO RECOVER UNRECOVERED FUEL COSTS OR SIGNIFICANT EVENT RECOVERY COSTS IN EXCHANGE FOR THE NET PROCEEDS OF THE TRANSITION BONDS.

11. INCLUDE A PROPOSED TRANSITION BILLING SERVICES TARIFF IF THE PROPOSED INITIAL SERVICER IS A PUBLIC POWER ENTITY.

12. DESCRIBE THE PROCESS TO NOTIFY THE PUBLIC OF THE FINAL STRUCTURE AND PRICING OF THE TRANSITION BONDS.

13. COMMIT TO PROVIDING A STATEMENT OF ACTUAL UPFRONT FINANCING COSTS.

14. COMMIT TO PROVIDING AN UPDATED CALCULATION OF THE ESTIMATED FINANCING CHARGES AND UNIT FINANCING CHARGES OVER THE LIFE OF THE TRANSITION BONDS.

15. PROVIDE A PROPOSED FORM OF FINANCING RESOLUTION.

D. INTERESTED PERSONS MAY FILE WRITTEN COMMENTS WITH THE PUBLIC POWER ENTITY'S GOVERNING BODY AT ANY TIME DURING OR BEFORE THE PUBLIC MEETING OF THE GOVERNING BODY PRESCRIBED BY SUBSECTION A OF THIS SECTION. AT THE PUBLIC MEETING, THE BOARD OF DIRECTORS SHALL PROVIDE:

1. THE REPRESENTATIVES OF THE PUBLIC POWER ENTITY'S MANAGEMENT WITH AN OPPORTUNITY TO EXPLAIN THE SECURITIZATION PROPOSAL AND ANSWER QUESTIONS.

2. ANY CONSULTANTS THAT WERE RETAINED BY THE PUBLIC POWER ENTITY WITH AN OPPORTUNITY TO COMMENT ON THE SECURITIZATION PROPOSAL.

3. ANY INTERESTED PERSONS WITH A REASONABLE OPPORTUNITY TO SUBMIT WRITTEN COMMENTS OR MAKE ORAL PRESENTATIONS OF VIEWS, QUESTIONS AND COMMENTS ON THE SECURITIZATION PROPOSAL.

E. ON REVIEW OF THE INFORMATION AND COMMENTS GATHERED IN COMPLIANCE WITH THIS SECTION, THE GOVERNING BODY OF A PUBLIC POWER ENTITY SHALL ADOPT A FINANCING RESOLUTION THAT APPROVES, REJECTS OR APPROVES WITH CONDITIONS THE INITIATION OF THE PROPOSED TRANSACTION. THE GOVERNING BODY MAY APPROVE OR APPROVE WITH CONDITIONS THE INITIATION OF THE PROPOSED TRANSACTION ONLY IF THE GOVERNING BODY FINDS THAT ALL OF THE FOLLOWING APPLY:

1. THE SECURITIZATION PROPOSAL COMPLIES WITH SUBSECTION C OF THIS SECTION.

[~~2. THE TRANSITION BENEFIT TEST HAS BEEN SATISFIED. THE TRANSITION BENEFIT TEST IS SATISFIED ON A SHOWING THAT THE PROPOSED STRUCTURE AND PROJECTED PRICING OF THE TRANSITION BONDS ARE REASONABLY EXPECTED TO RESULT, ON A NET PRESENT VALUE BASIS OVER THE LIFE OF THE TRANSITION BONDS, IN THE LOWEST FINANCING CHARGES THAT ARE COMMERCIALLY AVAILABLE CONSISTENT WITH MARKET CONDITIONS AT THE TIME THE TRANSITION BONDS ARE PRICED AND WITH THE TERMS OF THE FINANCING RESOLUTION.~~]

[2. THE TRANSITION BENEFIT TEST IS SATISFIED. THE TRANSITION BENEFIT TEST IS SATISFIED ON A SHOWING OF BOTH OF THE FOLLOWING:

(a) THE PROJECTED NET PRESENT VALUE OVER THE TERM OF THE TRANSITION BONDS OF THE FINANCING CHARGES MINUS, TO THE EXTENT APPLICABLE, THE REVENUE REQUIREMENT CREDITS THAT ARISE FROM ANY DEFERRED INCOME TAX BALANCES ASSOCIATED WITH THE TRANSITION COST WILL BE SMALLER IN ABSOLUTE VALUE THAN THE PROJECTED NET PRESENT VALUE THAT IS CALCULATED AT THE SAME DISCOUNT RATE OF THE PORTION OF THE ANNUAL REVENUE REQUIREMENTS OF THE APPLICANT THAT IS ASSOCIATED WITH THE TRANSITION COST, IF THE COST WERE TO BE FINANCED DIRECTLY BY THE APPLICANT.

(b) THE PROPOSED STRUCTURE AND PROJECTED PRICING OF THE TRANSITION BONDS ARE REASONABLY EXPECTED TO RESULT, ON A NET PRESENT VALUE BASIS OVER THE LIFE OF THE TRANSITION BONDS, IN THE LOWEST FINANCING CHARGES THAT ARE COMMERCIALLY AVAILABLE CONSISTENT WITH THE MARKET CONDITIONS AT THE TIME THE TRANSITION BONDS ARE PRICED AND WITH THE TERMS OF THE FINANCING RESOLUTION.]

3. ANY PROPOSED TRANSITION BILLING SERVICES TARIFF SUPPORTS AFFORDABILITY AND RELIABILITY, IS IN THE PUBLIC INTEREST AND SHOULD BE PLACED INTO EFFECT.

4. FOR A SECURITIZATION PROPOSAL THAT INVOLVES A TRANSITION ASSET THAT IS AN ELECTRIC POWER GENERATION FACILITY THAT WILL BE OR HAS BEEN RETIRED, SOLD, ABANDONED, DISPOSED OF OR OTHERWISE REMOVED FROM SERVICE OF THE APPLICANT'S CUSTOMERS, IN WHOLE OR IN PART, AS PROVIDED IN SECTION 30-901, PARAGRAPH 16, SUBDIVISIONS (a) AND (b), THE REPLACEMENT MEANS OF SATISFYING THE CUSTOMER LOAD SERVED BY THE ELECTRIC POWER GENERATION FACILITY THAT WILL BE OR HAS BEEN REMOVED FROM SERVICE IS MORE COST-EFFECTIVE FOR THE APPLICANT'S CUSTOMERS THAN CONTINUED RELIANCE ON OR OPERATION OF THE ELECTRIC POWER GENERATION FACILITY THAT WILL BE OR HAS BEEN REMOVED FROM SERVICE. COST-EFFECTIVENESS SHALL BE DETERMINED BY COMPARING THE SUM OF THE NET PRESENT VALUE OF ALL THE COSTS AND EXPENSES OF RELIABLE REPLACEMENT GENERATION OF EQUAL OR GREATER CONTRIBUTION TOWARD THE UTILITY'S RESOURCE ADEQUACY THAN THE ELECTRIC POWER GENERATION FACILITY THAT WILL BE OR HAS BEEN REMOVED FROM SERVICE OVER THE REPLACEMENT GENERATION'S EXPECTED USEFUL LIFE COMBINED WITH THE PROJECTED NET PRESENT VALUE TO RATEPAYERS OF THE TOTAL EXPECTED COST OF THE TRANSITION BONDS OVER THE TERM OF SUCH BONDS, AS COMPARED TO THE NET

PRESENT VALUE TO RATEPAYERS OF THE COST, INCLUDING ANY UNRECOVERED COSTS ASSOCIATED WITH UNDEPRECIATED VALUE OR UNRECOVERED BALANCES OF THE TRANSITION ASSET IF SUCH COSTS WERE TO BE FINANCED DIRECTLY BY THE PUBLIC POWER ENTITY, OF CONTINUING TO OPERATE THE ELECTRIC POWER GENERATION FACILITY THAT WILL BE OR HAS BEEN REMOVED FROM SERVICE OVER AN EQUIVALENT TIME FRAME REGARDLESS OF THE FUEL SOURCE OF THE POWER GENERATION. THE COST-EFFECTIVE EVALUATION SHALL INCLUDE A DESCRIPTION OF A PORTFOLIO THAT CONTAINS NEW AND EXISTING RESOURCES THAT WILL PROVIDE RELIABLE REPLACEMENT GENERATION OF EQUIVALENT RESOURCE ADEQUACY AS THE ELECTRIC POWER GENERATION THAT WILL BE OR HAS BEEN REMOVED FROM SERVICE.

5. THE SECURITIZATION PROPOSAL IS JUST AND REASONABLE, IS IN THE PUBLIC INTEREST AND SHOULD BE PLACED INTO EFFECT.

[F. ON JANUARY 1 AND JUNE 1 OF EACH YEAR, A SERVICER SHALL FILE A REPORT WITH THE GOVERNING BODY OF THE PUBLIC POWER ENTITY THAT INCLUDES THE TOTAL NUMBER OF TRANSITION BONDS THAT WERE ISSUED AND THE TOTAL AMOUNT OF PAYMENTS THAT WERE COLLECTED FROM UTILITY CONSUMERS.]

30-904. Transition property; property rights; default on transition bonds

A. TRANSITION PROPERTY IS IMMEDIATELY CREATED BY OPERATION OF LAW ON THE LATTER OF THE APPROVAL OF A FINANCING RESOLUTION, THE CREATION AND CAPITALIZATION OF A QUALIFIED SPECIAL PURPOSE ENTITY AND THE ISSUANCE AND RECEIPT OF VALUE FOR THE APPLICABLE TRANSITION BONDS. TRANSITION PROPERTY CONTINUES TO EXIST UNTIL THE CORRESPONDING TRANSITION BONDS AND ALL ONGOING FINANCING COSTS RELATED TO THE TRANSITION BONDS HAVE BEEN FULLY PAID. ON CREATION, TRANSITION PROPERTY BELONGS TO THE QUALIFIED SPECIAL PURPOSE ENTITY. A QUALIFIED SPECIAL PURPOSE ENTITY MAY NOT PROVIDE UTILITY SERVICE AND IS NOT A PUBLIC SERVICE CORPORATION, PUBLIC POWER ENTITY OR COOPERATIVE. A QUALIFIED SPECIAL PURPOSE ENTITY SHALL NOT CONDUCT ANY BUSINESS UNRELATED TO OWNING, PROTECTING AND ADMINISTERING THE TRANSITION PROPERTY OR ISSUING, MARKETING, PLACING, AUTHORIZING, SUPPORTING, REPAYING REFINANCING, SERVICING, ADMINISTERING OR REFUNDING TRANSITION BONDS.

B. TRANSITION PROPERTY CONSTITUTES A VESTED, EXISTING, PRESENT, CONTINUING AND IRREVOCABLE PROPERTY RIGHT FOR ALL PURPOSES, NOTWITHSTANDING THE FACT THAT THE VALUE OF THE TRANSITION PROPERTY MAY DEPEND ON, OR BE AFFECTED BY, EVENTS OR ACTIONS THAT HAVE NOT YET OCCURRED. TRANSITION PROPERTY SHALL NOT BE AN ASSET OF THE PUBLIC POWER ENTITY.

C. A PUBLIC POWER ENTITY MAY NOT HAVE AN OWNERSHIP OR BENEFICIAL INTEREST OR ANY CLAIM OF RIGHT IN THE TRANSITION PROPERTY, OTHER THAN THE REQUIREMENT TO CALCULATE, IMPOSE, CHARGE, COLLECT AND RECEIVE THE FINANCING CHARGES AS A SERVICER AND TRANSFER THE RESULTING FINANCING REVENUES TO THE QUALIFIED SPECIAL PURPOSE ENTITY THAT IS ENTITLED TO RECEIVE THOSE FINANCING REVENUES.

D. THE QUALIFIED SPECIAL PURPOSE ENTITY MAY PLEDGE ALL OR ANY PORTION OF THE TRANSITION PROPERTY TO SECURE THE TIMELY AND COMPLETE PAYMENT OF TRANSITION BONDS AND FINANCING COSTS.

E. TRANSITION PROPERTY, FINANCING CHARGES, FINANCING REVENUES AND THE INTERESTS OF A FINANCING PARTY OR ANY OTHER PERSON IN TRANSITION PROPERTY OR IN FINANCING REVENUES ARE NOT SUBJECT TO OFFSET, COUNTERCLAIM, SURCHARGE OR DEFENSE BY A SERVICER, A CUSTOMER, A PUBLIC POWER ENTITY, A CREDITOR OF A PUBLIC POWER ENTITY, A CREDITOR OF THE QUALIFIED SPECIAL PURPOSE ENTITY OR ANY OTHER PERSON, OR IN CONNECTION WITH ANY DEFAULT, BANKRUPTCY, REORGANIZATION OR OTHER INSOLVENCY PROCEEDING OF ANY SUCH PERSON.

F. IF THERE IS A DEFAULT ON THE TRANSITION BONDS, BOTH OF THE FOLLOWING APPLY:

1. ANY SECURED PARTY HAS THE RIGHT TO FORECLOSE ON TRANSITION PROPERTY OR OTHERWISE ENFORCE ITS RIGHTS AS TO THE TRANSITION PROPERTY IN THE SAME MANNER AS IF IT WERE A SECURED PARTY UNDER THE UNIFORM COMMERCIAL CODE.

2. ON APPLICATION BY AN INTERESTED PARTY, AND WITHOUT LIMITING PARAGRAPH 1 OF THIS SUBSECTION OR ANY OTHER REMEDIES AVAILABLE TO THE APPLYING PARTY, A COURT SHALL ORDER THE SEQUESTRATION AND PAYMENT OF THE MONIES ARISING FROM THE TRANSITION PROPERTY TO THE PERSON THAT IS ENTITLED TO RECEIVE THE MONIES. THE ORDER SHALL REMAIN IN FULL FORCE AND EFFECT NOTWITHSTANDING ANY BANKRUPTCY, REORGANIZATION OR OTHER INSOLVENCY OR RECEIVERSHIP PROCEEDINGS OF A PUBLIC POWER ENTITY OR THE QUALIFIED SPECIAL PURPOSE ENTITY.

G. FOR THE PURPOSES OF THIS CHAPTER, TRANSITION PROPERTY SHALL BE IN EXISTENCE REGARDLESS OF WHETHER THE REVENUES OR PROCEEDS WITH RESPECT TO THE TRANSITION PROPERTY HAVE ACCRUED AND REGARDLESS OF WHETHER THE VALUE OF THE PROPERTY RIGHT IS DEPENDENT ON CUSTOMERS RECEIVING SERVICE.

30-905. Transition bonds; issuance; authority of qualified special purpose entity; reimbursement of costs

A. AFTER APPROVAL OF A FINANCING RESOLUTION PURSUANT TO SECTION 30-903, A QUALIFIED SPECIAL PURPOSE ENTITY IS AUTHORIZED TO ISSUE ONE OR MORE SERIES, CLASSES OR TRANCHES OF TRANSITION BONDS AND TO PLEDGE TRANSITION PROPERTY TO SECURE THE PAYMENT OF ONGOING FINANCING COSTS. ON ISSUANCE OF THE TRANSITION BONDS, THE QUALIFIED SPECIAL PURPOSE ENTITY SHALL TRANSFER TO THE PUBLIC POWER ENTITY THE NET PROCEEDS OF THE TRANSITION BONDS MINUS THE UPFRONT FINANCING COSTS PAID BY THE QUALIFIED SPECIAL PURPOSE ENTITY.

B. THE APPROVAL OF A FINANCING RESOLUTION DOES NOT OBLIGATE A PUBLIC POWER ENTITY OR A QUALIFIED SPECIAL PURPOSE ENTITY TO ENGAGE IN THE APPROVED TRANSACTION, AND NEITHER A PUBLIC POWER ENTITY NOR A QUALIFIED SPECIAL PURPOSE ENTITY SHALL BE SUBJECT TO ANY REGULATORY CONDITIONS, REGULATORY SANCTIONS OR OTHER PENALTIES FOR NOT ENGAGING IN AN APPROVED TRANSACTION. IF THE QUALIFIED SPECIAL PURPOSE ENTITY DETERMINES NOT TO

ISSUE TRANSITION BONDS AUTHORIZED BY A FINANCING RESOLUTION, THE PUBLIC POWER ENTITY SHALL REIMBURSE THE QUALIFIED SPECIAL PURPOSE ENTITY FOR ANY COSTS PAID BY THE QUALIFIED SPECIAL PURPOSE ENTITY THAT WOULD HAVE CONSTITUTED UPFRONT FINANCING COSTS HAD THE TRANSITION BONDS BEEN ISSUED, EXCEPT THAT DELAYING THE ISSUANCE OF TRANSITION BONDS PENDING FINAL RESOLUTION OF ANY APPEALS FROM THE FINANCING RESOLUTION OR ANY LEGAL CHALLENGES TO THIS CHAPTER IS NOT DEEMED TO BE SUCH A DETERMINATION.

30-906. Transition property; security interest; lien; priority

A. THIS SECTION APPLIES TO ALL PURPORTED TRANSFERS OF, GRANTS OF LIENS ON, OR SECURITY INTERESTS IN TRANSITION PROPERTY. EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, THE CREATION, PERFECTION AND ENFORCEMENT OF A SECURITY INTEREST IN TRANSITION PROPERTY THAT IS PLEDGED TO SECURE THE PAYMENT OF THE ONGOING FINANCING COSTS ARE GOVERNED BY THIS SECTION.

B. THE DESCRIPTION OF OR REFERENCE TO TRANSITION PROPERTY IN A TRANSFER OR SECURITY AGREEMENT IS SUFFICIENT IF AND ONLY IF THE DESCRIPTION OR REFERENCE REFER TO THIS CHAPTER AND THE FINANCING RESOLUTION DESCRIBING THE TRANSITION PROPERTY. A SECURITY INTEREST IN TRANSITION PROPERTY IS CREATED, VALID, BINDING AND ENFORCEABLE AT THE LATEST OF ANY OF THE FOLLOWING:

1. WHEN THE TRANSITION BONDS ARE ISSUED BY THE QUALIFIED SPECIAL PURPOSE ENTITY.

2. WHEN A SECURITY AGREEMENT IS EXECUTED AND DELIVERED BY THE QUALIFIED SPECIAL PURPOSE ENTITY.

3. WHEN VALUE IS RECEIVED BY THE QUALIFIED SPECIAL PURPOSE ENTITY FOR THE TRANSITION BONDS.

C. THE SECURITY INTEREST IN TRANSITION PROPERTY IS A STATUTORY LIEN THAT ATTACHES AUTOMATICALLY IN FAVOR OF THE APPLICABLE FINANCING PARTY WHEN THE TRANSITION BOND IS ISSUED AND VALUE FOR THE TRANSITION BONDS IS RECEIVED. THE SECURITY INTEREST ATTACHES WITHOUT ANY PHYSICAL DELIVERY OF ANY COLLATERAL OR OTHER ACT, AND THE SECURITY INTEREST IS VALID, BINDING AND PERFECTED AGAINST ALL PARTIES THAT HAVE CLAIMS OF ANY KIND AGAINST THE PERSON GRANTING THE SECURITY INTEREST, REGARDLESS OF WHETHER THE PARTIES HAVE NOTICE OF A LIEN, ON THE FILING OF A FINANCING STATEMENT WITH THE SECRETARY OF STATE. THE SECRETARY OF STATE SHALL MAINTAIN THE FINANCING STATEMENT IN THE SAME MANNER AND IN THE SAME RECORDKEEPING SYSTEM MAINTAINED FOR FINANCING STATEMENTS THAT ARE FILED PURSUANT TO TITLE 47, CHAPTER 9, ARTICLE 5. FINANCING STATEMENTS THAT ARE FILED PURSUANT TO THIS SECTION ARE EFFECTIVE WITHOUT THE NEED TO FILE A CONTINUATION STATEMENT UNTIL A TERMINATION STATEMENT IS FILED.

D. A TRANSFER OF AN INTEREST, INCLUDING A GRANT OF A LIEN OR SECURITY INTEREST, IN TRANSITION PROPERTY IS PERFECTED AGAINST ALL THIRD PERSONS. A SECURITY INTEREST IN TRANSITION PROPERTY IS A CONTINUOUSLY PERFECTED SECURITY INTEREST AND HAS PRIORITY OVER ANY OTHER LIEN THAT MAY

SUBSEQUENTLY ATTACH TO THE TRANSITION PROPERTY UNLESS THE HOLDER OF THE SECURITY INTEREST HAS AGREED IN WRITING OTHERWISE.

E. THE PRIORITY OF A SECURITY INTEREST IN TRANSITION PROPERTY IS NOT AFFECTED BY THE COMMINGLING OF FINANCING REVENUES WITH OTHER FUNDS. ANY PLEDGEE OR SECURED PARTY HAS A PERFECTED SECURITY INTEREST IN THE AMOUNT OF ALL FINANCING REVENUES THAT ARE DEPOSITED IN ANY ACCOUNT OF THE SERVICER IN WHICH FINANCING REVENUES HAVE BEEN COMMINGLED WITH OTHER MONIES, AND ANY OTHER SECURITY INTEREST THAT MAY APPLY TO SUCH FINANCING REVENUES IS TERMINATED WHEN THOSE FUNDS ARE TRANSFERRED TO A SEGREGATED ACCOUNT FOR A FINANCING PARTY OR ASSIGNEE OF A FINANCING PARTY.

F. THE TRUE-UP MECHANISM DOES NOT AFFECT THE VALIDITY, PERFECTION OR PRIORITY OF A SECURITY INTEREST IN OR TRANSFER OF TRANSITION PROPERTY.

G. THE VALIDITY, PERFECTION OR PRIORITY OF A LIEN AND SECURITY INTEREST UNDER THIS CHAPTER IS NOT IMPAIRED BY ANY LATER MODIFICATION OF A FINANCING RESOLUTION OR CHANGES IN A CUSTOMER'S FINANCING CHARGES.

30-907. Financing charges; true-up mechanism; civil action

A. FINANCING CHARGES ARE NONBYPASSABLE, ARE MANDATORY AND APPLY TO ALL CUSTOMERS. FINANCING REVENUES SHALL BE USED SOLELY FOR THE PAYMENT OF ONGOING FINANCING COSTS.

B. THE TRUE-UP MECHANISM SHALL CORRECT FOR ANY OVERCOLLECTION OR UNDERCOLLECTION OF FINANCING REVENUES AND PROVIDE FOR TIMELY AND COMPLETE PAYMENT OF ONGOING FINANCING COSTS. ADJUSTMENTS TO FINANCING CHARGES THAT ARE MADE IN ACCORDANCE WITH THE TRUE-UP MECHANISM SHALL BE APPLIED THROUGH AN EQUAL PERCENTAGE CHANGE TO ALL UNIT FINANCING CHARGES OR THROUGH AN ALTERNATIVE NONDISCRETIONARY MATHEMATICAL PROCESS OF ADJUSTING UNIT FINANCING CHARGES THAT IS INCLUDED IN THE TRUE-UP MECHANISM AND THAT IS DESCRIBED IN THE FINANCING RESOLUTION.

C. ADJUSTMENTS TO THE FINANCING CHARGES AND UNIT FINANCING CHARGES RESULTING FROM THE APPLICATION OF THE TRUE-UP MECHANISM ARE EFFECTIVE WITHOUT ANY ORDER OR ACTION OF THE GOVERNING BODY OF THE PUBLIC POWER ENTITY OR ANY OTHER BODY, EXCEPT AS PROVIDED IN SUBSECTION D OF THIS SECTION.

D. WHEN TRANSITION BONDS ARE ISSUED, THE DETERMINATION AND IMPOSITION OF FINANCING CHARGES, THE RECOVERY OF FINANCING REVENUES AND THE ADJUSTMENT OF THE FINANCING CHARGES THROUGH THE TRUE-UP MECHANISM ARE NOT SUBJECT TO REVIEW OR APPROVAL BY ANY GOVERNMENT ENTITY, INCLUDING STATE AGENCIES, PUBLIC CORPORATIONS, MUNICIPALITIES OR OTHER INSTRUMENTALITIES OF THIS STATE, EXCEPT THAT THE SUPERIOR COURT HAS EXCLUSIVE JURISDICTION TO AND, ON COMMENCEMENT OF A SUIT AGAINST THE QUALIFIED SPECIAL PURPOSE ENTITY BY A CUSTOMER, MAY REVIEW AND DETERMINE WHETHER THERE HAS BEEN A MATHEMATICAL OR ADMINISTRATIVE ERROR IN THE CALCULATION OR APPLICATION OF THE TRUE-UP MECHANISM OR THE CALCULATION OF THE RESULTING FINANCING CHARGES AND UNIT FINANCING CHARGES.

E. THE JURISDICTION AND AUTHORITY OF THE SUPERIOR COURT IN AN ACTION UNDER THIS SECTION IS LIMITED TO DETERMINING THE FINANCING CHARGES

AND UNIT FINANCING CHARGES THAT RESULT FROM THE CORRECT CALCULATION AND APPLICATION OF THE TRUE-UP MECHANISM. THE SUPERIOR COURT SHALL NOT ORDER OR REQUIRE ANY MODIFICATION TO THE TRUE-UP MECHANISM OR LIMIT, REDUCE, ALTER, IMPAIR, DELAY OR TERMINATE THE APPLICATION OF THE TRUE-UP MECHANISM OR THE COLLECTION AND REMITTANCE OF FINANCING REVENUES. A PARTY MAY NOT BRING ANY ACTION TO ENJOIN, RESTRAIN, STAY OR DELAY THE VALIDITY, CALCULATION AND IMPOSITION OF FINANCING CHARGES OR THE COLLECTION OF FINANCING REVENUES, INCLUDING THE ESTABLISHMENT AND APPLICATION OF THE TRUE-UP MECHANISM AND THE COLLECTION AND REMITTANCE OF FINANCING REVENUES. AN ACTION UNDER THIS SECTION MUST BE FILED WITHIN TEN DAYS AFTER THE QUALIFIED SPECIAL PURPOSE ENTITY OR SERVICER FILES NOTICE WITH THE PUBLIC POWER ENTITY UNDER SUBSECTION J OF THIS SECTION. THE TIME FOR BRINGING THE ACTION MAY NOT BE TOLLED OR EXTENDED FOR ANY REASON. WITHIN SIXTY DAYS AFTER THE FILING OF AN ACTION UNDER THIS SECTION, THE SUPERIOR COURT SHALL HEAR AND ISSUE A DECISION ON THE MATTER. THE DECISION IS APPEALABLE ONLY TO THE SUPREME COURT, AND THE NOTICE OF APPEAL SHALL BE FILED WITHIN FIVE DAYS AFTER THE DECISION OF THE SUPERIOR COURT IN THE ACTION. THE SUPREME COURT SHALL RENDER A DECISION ON THE APPEAL PROMPTLY BUT NOT LATER THAN NINETY DAYS AFTER THE NOTICE OF APPEAL IS FILED WITH THE SUPREME COURT.

F. A COURT MAY NOT ENJOIN, RESTRAIN, STAY OR DELAY THE APPLICATION OF THE TRUE-UP MECHANISM OR THE COLLECTION AND REMITTANCE OF FINANCING REVENUES. IF THE FINAL JUDGMENT OF THE SUPERIOR COURT, AFTER ALL APPEALS ARE EXHAUSTED, REQUIRES A MODIFICATION OF ANY ADJUSTMENT MADE UNDER THE TRUE-UP MECHANISM, THE SERVICER SHALL MAKE THAT MODIFICATION AT THE TIME OF AND AS PART OF THE NEXT PERIODIC ADJUSTMENT OF THE FINANCING CHARGES ON THE EXHAUSTION OF ALL APPEALS THROUGH THE TRUE-UP MECHANISM.

G. ANY ADJUSTMENTS THAT ARE MADE PURSUANT TO THE TRUE-UP MECHANISM, ANY REVIEW OF THE CALCULATIONS OF THOSE ADJUSTMENTS OR ANY ACTION BROUGHT TO DETERMINE WHETHER THERE HAS BEEN A MATHEMATICAL OR ADMINISTRATIVE ERROR IN THE APPLICATION OF THE TRUE-UP MECHANISM SHALL NOT AFFECT THE IRREVOCABILITY OF THE TRANSITION PROPERTY, THE FINANCING RESOLUTION, THE NONBYPASSABILITY OF THE FINANCING CHARGES AND UNIT FINANCING CHARGES OR THE NONIMPAIRMENT PLEDGES PRESCRIBED IN SECTION 30-909.

H. REGARDLESS OF WHETHER FINANCING CHARGES ARE ADMINISTERED, BILLED OR COLLECTED BY A SERVICER THAT IS A PUBLIC POWER ENTITY, THE FINANCING CHARGES ARE NOT RATES OR CHARGES IMPOSED BY OR MADE BY A PUBLIC POWER ENTITY FOR UTILITY SERVICE. THE RIGHT TO RECEIVE FINANCING CHARGES AND TO COLLECT FINANCING REVENUES IS INDEPENDENT OF ANY RATE THAT IS ESTABLISHED, MADE OR CHARGED BY A PUBLIC POWER ENTITY FOR PUBLIC UTILITY SERVICES, INCLUDING COLLECTED REVENUES. FINANCING REVENUES ARE THE PROPERTY OF THE QUALIFIED SPECIAL PURPOSE ENTITY AND ARE NOT THE PROPERTY OF THE SERVICER OR ANY OTHER PUBLIC POWER ENTITY.

I. THE SERVICER, AS AGENT FOR THE QUALIFIED SPECIAL PURPOSE ENTITY, AT A MINIMUM SEMIANNUALLY AND QUARTERLY DURING THE TWO-YEAR PERIOD

PRECEDING THE FINAL MATURITY DATE OF THE TRANSITION BONDS OR THE FINAL MATURITY DATE OF THE SERIES, CLASS OR TRANCHE OF SUCH BONDS WITH THE LATEST FINAL MATURITY DATE, IF MORE THAN ONE SERIES, CLASS OR TRANCHE HAS BEEN ISSUED, SHALL PERFORM CALCULATIONS FOR BOTH OF THE FOLLOWING:

1. ESTIMATING WHETHER THE EXISTING FINANCING CHARGES AND RESULTING FINANCING REVENUES ARE SUFFICIENT TO PROVIDE FOR A TIMELY AND COMPLETE PAYMENT OF ANY ONGOING FINANCING COSTS OR WHETHER AN OVERCOLLECTION OR UNDERCOLLECTION OF FINANCING REVENUES IS PROJECTED.

2. UNDERTAKING THE PROCESSES USED IN THE TRUE-UP MECHANISM TO DETERMINE THE ADJUSTMENT TO THE FINANCING CHARGES THAT ARE PROJECTED TO CORRECT FOR ANY OVERCOLLECTION OR UNDERCOLLECTION OF FINANCING REVENUES.

J. THE QUALIFIED SPECIAL PURPOSE ENTITY OR THE SERVICER AS AGENT FOR THE QUALIFIED SPECIAL PURPOSE ENTITY SHALL FILE WITH THE GOVERNING BODY OF THE PUBLIC POWER ENTITY AN INFORMATIONAL NOTICE THAT IDENTIFIES THE ADJUSTED UNIT FINANCING CHARGES THAT ARE TO BE INCLUDED ON A CUSTOMER'S BILLS UNDER THE TRANSITION SERVICES TARIFF. THIS NOTICE IS REQUIRED TO INFORM THE CUSTOMER AND SHALL BE PROVIDED NOT LATER THAN FIFTEEN DAYS BEFORE THE DATE THE UNIT FINANCING CHARGES BECOME EFFECTIVE. THE NOTICE SHALL PROVIDE SUFFICIENT INFORMATION TO VERIFY THE MATHEMATICAL CALCULATION OF THE ADJUSTED FINANCING CHARGES AND THE UNIT FINANCING CHARGES THAT RESULT FROM APPLYING THE TRUE-UP MECHANISM.

K. IF A CUSTOMER DOES NOT PAY ANY UNIT FINANCING CHARGE, THE QUALIFIED SPECIAL PURPOSE ENTITY OR THE SERVICER AS AGENT OF THE QUALIFIED SPECIAL PURPOSE ENTITY MAY BRING SUIT IN ANY COURT OF COMPETENT JURISDICTION AGAINST THE CUSTOMER TO COLLECT THE UNPAID UNIT FINANCING CHARGES. REASONABLE ATTORNEY FEES AND COSTS SHALL BE AWARDED TO THE PREVAILING PARTY. COMMENCEMENT OF THE SUIT DOES NOT AFFECT THE CALCULATION OF ANY ADJUSTMENT THAT IS AUTHORIZED BY THE TRUE-UP MECHANISM UNTIL THE NET PROCEEDS ARE RECOVERED AND PAID TO THE QUALIFIED SPECIAL PURPOSE ENTITY AS FINANCING REVENUES.

30-908. Public power entity as servicer; transition billing services tariffs; AAA rating

A. IF A SERVICER IS A PUBLIC POWER ENTITY, THE PUBLIC POWER ENTITY SHALL USE ITS RESOURCES AND SYSTEMS TO PERFORM THE DUTIES OF A SERVICER UNDER A TRANSITION BILLING SERVICES TARIFF.

B. IF A SERVICER COLLECTS PAYMENT MADE BY A CUSTOMER FOR FINANCING CHARGES, WHETHER UNDER A TRANSITION BILLING SERVICES TARIFF OR OTHERWISE, THE MONIES COLLECTED ARE FINANCING REVENUES WHEN THE MONIES ARE PAID BY THE CUSTOMER, AND THE SERVICER HAS NO RIGHT, TITLE OR INTEREST IN THE REVENUES OTHER THAN AS AN AGENT FOR THE QUALIFIED SPECIAL PURPOSE ENTITY. IF A CUSTOMER PAYS ONLY A PORTION OF THE CHARGES STATED ON A BILL PROVIDED BY A SERVICER THAT INCLUDES FINANCING CHARGES, THE PARTIAL PAYMENT SHALL BE FIRST APPLIED TO PAYING THE FINANCING CHARGES.

C. IF A SERVICER FAILS TO MAKE ANY REQUIRED PAYMENT OF FINANCING REVENUES TO A QUALIFIED SPECIAL PURPOSE ENTITY OR FAILS TO FULFILL ITS

SERVICING OBLIGATIONS UNDER AN APPLICABLE TRANSITION BILLING SERVICES TARIFF, THE QUALIFIED SPECIAL PURPOSE ENTITY OR THE HOLDERS OF THE TRANSITION BONDS MAY REQUEST THAT THE SUPERIOR COURT ORDER THE SEQUESTRATION AND PAYMENT OF THE FINANCING REVENUES FOR THE BENEFIT OF ANY FINANCING PARTIES OR THEIR ASSIGNEES AND MAY REQUEST ANY OTHER APPLICABLE RELIEF. THE ORDER SHALL REMAIN IN FULL FORCE AND EFFECT NOTWITHSTANDING ANY BANKRUPTCY, REORGANIZATION OR OTHER INSOLVENCY OR RECEIVERSHIP PROCEEDINGS OF THE SERVICER OR THE QUALIFIED SPECIAL PURPOSE ENTITY.

D. IF THIS STATE, THROUGH THE GOVERNING BODY OF THE PUBLIC POWER ENTITY OR OTHERWISE PURSUANT TO THIS CHAPTER, ALLOWS THE BILLING, COLLECTION AND REMITTANCE BY A THIRD PARTY OF SUMS THAT WOULD OTHERWISE BE BILLED, COLLECTED OR REMITTED BY A PUBLIC POWER ENTITY THAT ACTS AS A SERVICER, THE AUTHORIZATION MUST BE CONSISTENT WITH THE RATING AGENCIES' REQUIREMENTS THAT ARE NECESSARY FOR THE TRANSITION BONDS TO RECEIVE AND MAINTAIN AN AAA OR EQUIVALENT RATING.

30-909. Transition bonds; irrevocability; public policy; noncompliance

A. ON OR AFTER THE ISSUANCE OF TRANSITION BONDS, THE TRANSITION PROPERTY, THE TRUE-UP MECHANISM AND THE FINANCING CHARGES ARE IRREVOCABLE, FINAL, NONDISCRETIONARY AND EFFECTIVE WITHOUT THE NEED FOR FURTHER ACTION BY THE GOVERNING BODY OR THIS STATE, AND SUCH FINANCING CHARGES SHALL NOT BE SUBJECT TO RESCISSION, ALTERATION, AMENDMENT, REDUCTION, IMPAIRMENT OR ADJUSTMENT BY FURTHER ACTION OF THIS STATE OR ANY OTHER BODY, EXCEPT PURSUANT TO THE TRUE-UP MECHANISM.

B. THIS STATE, INCLUDING ALL AGENCIES, PUBLIC CORPORATIONS, MUNICIPALITIES OR OTHER INSTRUMENTALITIES OF THIS STATE, PLEDGES TO AND AGREES WITH THE FINANCING PARTIES, INCLUDING PRESENT AND FUTURE HOLDERS OF TRANSITION BONDS, THE PUBLIC POWER ENTITY, THE QUALIFIED SPECIAL PURPOSE ENTITY AND ANY OTHER PERSONS THAT ENTER INTO AN ANCILLARY AGREEMENT THAT AFTER THE ISSUANCE OF TRANSITION BONDS AND UNTIL ALL FINANCING COSTS, INCLUDING THE PRINCIPAL AND INTEREST ON THE TRANSITION BONDS AND ALL AMOUNTS TO BE PAID UNDER AN ANCILLARY AGREEMENT, ARE FULLY MET AND DISCHARGED, THIS STATE OR ANY AGENCY, PUBLIC CORPORATION, MUNICIPALITY OR OTHER INSTRUMENTALITY OF THIS STATE MAY NOT TAKE OR ALLOW ANY ACTION TO BE TAKEN TO LIMIT, REDUCE, ALTER, IMPAIR, DELAY OR TERMINATE ANY OF THE FOLLOWING:

1. THE RIGHTS CONFERRED BY THIS CHAPTER, INCLUDING THE RIGHTS IN TRANSITION PROPERTY OR TRANSITION BONDS.

2. THE IMPOSITION OF FINANCING CHARGES AND UNIT FINANCING CHARGES BY THE QUALIFIED SPECIAL PURPOSE ENTITY.

3. THE OPERATION OF THE TRUE-UP MECHANISM TO ADJUST FINANCING CHARGES AND UNIT FINANCING CHARGES.

4. THE COLLECTION OF FINANCING REVENUES IN PAYMENT OF FINANCING CHARGES AND UNIT FINANCING CHARGES.

5. THE PAYMENT OF FINANCING COSTS.

C. IT IS THE INTENTION OF THIS STATE THAT THE PLEDGES MADE UNDER SUBSECTION B OF THIS SECTION CAN AND WILL BE RELIED ON BY A PUBLIC POWER ENTITY, THE QUALIFIED SPECIAL PURPOSE ENTITY, OTHER PERSONS THAT ENTER INTO AN ANCILLARY AGREEMENT AND ANY FINANCING PARTY. THESE PLEDGES MAY BE INCLUDED IN TRANSITION BONDS, ANCILLARY AGREEMENTS AND OTHER DOCUMENTATION RELATED TO ISSUING, RATING AND MARKETING THE TRANSITION BONDS.

D. ON AND AFTER THE ISSUANCE OF THE TRANSITION BONDS, THE FAILURE OF A PUBLIC POWER ENTITY OR A QUALIFIED SPECIAL PURPOSE ENTITY TO COMPLY WITH THIS CHAPTER OR THE FINANCING RESOLUTION DOES NOT INVALIDATE, IMPAIR OR AFFECT THE FINANCING RESOLUTION, THE TRANSITION PROPERTY, FINANCING CHARGES, TRANSITION BONDS OR FINANCING COSTS.

E. A FINANCING RESOLUTION, TRANSITION PROPERTY AND FINANCING CHARGES ARE NOT AFFECTED BY EITHER OF THE FOLLOWING:

1. THE BANKRUPTCY, REORGANIZATION, SALE, DISSOLUTION OR INSOLVENCY OF THE PUBLIC POWER ENTITY OR THE QUALIFIED SPECIAL PURPOSE ENTITY OR THE SUCCESSORS OR ASSIGNS OF THE PUBLIC POWER ENTITY OR THE QUALIFIED SPECIAL PURPOSE ENTITY.

2. THE COMMENCEMENT OF ANY PROCEEDING FOR BANKRUPTCY OR THE APPOINTMENT OF A RECEIVER AS TO EITHER THE PUBLIC POWER ENTITY, THE QUALIFIED SPECIAL PURPOSE ENTITY OR THE SUCCESSORS OF THE PUBLIC POWER ENTITY OR THE QUALIFIED SPECIAL PURPOSE ENTITY.

30-910. <u>Financing resolution; application for rehearing; judicial review</u>

A. A PARTY TO THE PROCEEDING WHO IS DISSATISFIED WITH A GOVERNING BODY'S DECISION AS TO A FINANCING RESOLUTION ADOPTED PURSUANT TO THIS CHAPTER OR THE ATTORNEY GENERAL ON BEHALF OF THIS STATE MAY APPLY TO THE GOVERNING BODY FOR REHEARING. THE APPLICATION FOR REHEARING SHALL BE FILED NOT LATER THAN TWENTY DAYS AFTER THE GOVERNING BODY'S DECISION ON THE FINANCING RESOLUTION. IF THE GOVERNING BODY DOES NOT GRANT THE APPLICATION FOR REHEARING WITHIN TWENTY DAYS AFTER THE APPLICATION IS FILED, THE APPLICATION IS DEEMED DENIED.

B. WITHIN TEN DAYS AFTER A REHEARING IS DENIED OR GRANTED AND NOT AFTERWARDS, A PARTY THAT FILES A REHEARING APPLICATION PURSUANT TO SUBSECTION A OF THIS SECTION MAY FILE, IN THE SUPERIOR COURT IN THE COUNTY IN WHICH THE GOVERNING BODY HAS ITS OFFICE, AN ACTION THAT SEEKS TO VACATE, SET ASIDE, AFFIRM IN PART, REVERSE IN PART OR REMAND THE GOVERNING BODY'S DECISION REGARDING THE FINANCING RESOLUTION. THE TIME FOR BRINGING ANY ACTION AUTHORIZED BY THIS SUBSECTION MAY NOT BE TOLLED OR EXTENDED FOR ANY REASON.

C. A PARTY THAT SEEKS TO VACATE, SET ASIDE OR OTHERWISE CHALLENGE A FINANCING RESOLUTION OR OTHER GOVERNING BODY DECISION UNDER THIS CHAPTER, IN WHOLE OR IN PART, BEARS THE BURDEN OF PROOF. IN AN ACTION THAT CHALLENGES A FINANCING RESOLUTION OR RELATED DECISION THAT RESULTED FROM A FINANCING RESOLUTION, RELIEF MAY BE AWARDED ONLY IF THE SUPERIOR COURT

DETERMINES, BASED ON CLEAR AND SATISFACTORY EVIDENCE, THAT EITHER OF THE FOLLOWING APPLIES:

1. THE FINANCING RESOLUTION OR OTHER GOVERNING BODY DECISION UNDER THIS CHAPTER IS UNLAWFUL.

2. THE FACTUAL FINDINGS MADE IN THE FINANCING RESOLUTION ARE UNSUPPORTED BY THE FINANCING RESOLUTION OR EVIDENCE THAT WAS PRESENTED BEFORE THE GOVERNING BODY.

D. WITHIN SIXTY DAYS AFTER THE FILING OF THE ACTION, THE SUPERIOR COURT SHALL HEAR AND ISSUE A DECISION ON THE MATTER. THE SUPERIOR COURT MAY EXTEND THIS TIME FOR NOT MORE THAN THIRTY DAYS FOR GOOD CAUSE.

E. A PARTY MAY APPEAL A DECISION IN AN ACTION FILED UNDER THIS SECTION ONLY TO THE SUPREME COURT. THE PARTY SHALL FILE THE NOTICE OF APPEAL WITHIN FIVE DAYS AFTER THE DECISION OF THE SUPERIOR COURT IN THE ACTION. THE TIME FOR FILING THE NOTICE OF APPEAL MAY NOT BE TOLLED OR EXTENDED FOR ANY REASON. THE SUPREME COURT SHALL ISSUE A DECISION ON THE APPEAL PROMPTLY.

F. EXCEPT AS OTHERWISE PROVIDED BY THIS SECTION, A COURT IN THIS STATE DOES NOT HAVE JURISDICTION TO REVIEW, ENJOIN, RESTRAIN, SUSPEND, STAY OR DELAY ANY OF THE FOLLOWING:

1. A FINANCING RESOLUTION.

2. THE CREATION OF TRANSITION PROPERTY.

3. THE ISSUANCE OF TRANSITION BONDS.

4. A GOVERNING BODY'S PERFORMANCE OF ITS DUTIES UNDER THIS CHAPTER.

G. AN ORDER OR DECREE THAT IS ISSUED BY A GOVERNING BODY IN THE PERFORMANCE OF ITS DUTIES UNDER THIS CHAPTER REMAINS IN FORCE PENDING THE DECISION OF THE COURT.

30-911. Fees and taxes

FINANCING CHARGES ARE NOT SUBJECT TO EITHER:

1. A FRANCHISE FEE THAT IS IMPOSED BY A MUNICIPALITY, COUNTY OR OTHER LOCAL GOVERNMENT UNIT AS A RESULT OF A FRANCHISE AGREEMENT OR LAWFUL ORDINANCE.

2. TAXES THAT ARE APPLICABLE TO SERVICES PROVIDED BY OR RATES OF A PUBLIC POWER ENTITY.

30-912. Transition bonds; public debt prohibition

A. TRANSITION BONDS ARE NOT A PUBLIC DEBT, A LIEN NOR A PLEDGE OF THE REVENUES, FAITH AND CREDIT OR TAXING POWER OF A PUBLIC POWER ENTITY, THIS STATE OR ANY COUNTY, MUNICIPALITY OR OTHER LOCAL GOVERNMENT UNIT OF THIS STATE. THE APPROVAL OF A FINANCING RESOLUTION DOES NOT OBLIGATE THIS STATE OR ANY COUNTY, MUNICIPALITY OR POLITICAL SUBDIVISION OF THIS STATE TO LEVY ANY TAX OR MAKE ANY APPROPRIATION FOR PAYMENT OF ANY FINANCING COST, INCLUDING THE PRINCIPAL AND INTEREST ON TRANSITION BONDS. THIS STATE OR A COUNTY, MUNICIPALITY OR POLITICAL SUBDIVISION OF THIS STATE MAY NOT LEVY ANY TAX ON HOLDERS OF TRANSITION BONDS OR OWNERS OF TRANSITION PROPERTY.

B. TRANSITION BONDS ARE NOT AN OBLIGATION, DEBT, LIEN OR PLEDGE OF THE ASSETS OR REVENUES OF THE PUBLIC POWER ENTITY. APPROVAL IS NOT REQUIRED UNDER SECTION 40-302 OR ANY OTHER PROVISION OF LAW FOR THE APPROVAL OF A FINANCING RESOLUTION, FOR THE ISSUANCE OF TRANSITION BONDS, FOR THE SALE OF TRANSITION BONDS OR FOR AN ASSIGNMENT OR TRANSFER OF TRANSITION PROPERTY OR ANY INTEREST IN TRANSITION PROPERTY THAT IS AUTHORIZED BY THIS CHAPTER.

30-913. Transition bonds; legal investments

TRANSITION BONDS ARE LEGAL INVESTMENTS FOR ALL GOVERNMENTAL UNITS, PERMANENT FUNDS OF THIS STATE, FINANCE AUTHORITIES, FINANCIAL INSTITUTIONS, INSURANCE COMPANIES, FIDUCIARIES AND OTHER PERSONS REQUIRING STATUTORY AUTHORITY REGARDING LEGAL INVESTMENTS.

30-914. Obligations of successor to public power entity

ANY SUCCESSOR TO A PUBLIC POWER ENTITY, WHETHER PURSUANT TO A BANKRUPTCY, REORGANIZATION OR OTHER INSOLVENCY PROCEEDING OR PURSUANT TO A MERGER, ACQUISITION, SALE OR TRANSFER OR OTHER BUSINESS COMBINATION BY OPERATION OF LAW OR AGREEMENT OF THE PUBLIC POWER ENTITY OR OTHERWISE, SHALL PERFORM AND SATISFY ALL OBLIGATIONS OF AND HAVE THE SAME RIGHTS AND OBLIGATIONS UNDER THIS CHAPTER OR ANY FINANCING RESOLUTION AS THE PUBLIC POWER ENTITY IN THE SAME MANNER AND TO THE SAME EXTENT AS THE PUBLIC POWER ENTITY, INCLUDING ACTING AS A SERVICER AND COLLECTING AND PAYING TO THE PERSON ENTITLED TO RECEIVE THE FINANCING CHARGES AND FINANCING REVENUES.

30-915. Choice of law; conflicts with other laws

THE LAWS OF THIS STATE GOVERN THE VALIDITY, ENFORCEABILITY, ATTACHMENT, PERFECTION, PRIORITY AND EXERCISE OF REMEDIES WITH RESPECT TO THE CREATION OR TRANSFER OF, OR OF ANY INTEREST IN, TRANSITION PROPERTY, FINANCING CHARGES OR FINANCING REVENUES. IF THERE IS ANY CONFLICT BETWEEN THIS CHAPTER AND ANY OTHER LAW REGARDING THE CREATION, ATTACHMENT, TRANSFER, ASSIGNMENT OR PERFECTION OF, OR THE EFFECT OF PERFECTION ON OR THE PRIORITY OF ANY SECURITY INTEREST IN TRANSITION PROPERTY, FINANCING CHARGES OR FINANCING REVENUES, THIS CHAPTER GOVERNS TO THE EXTENT OF THE CONFLICT.

30-916. Effect of invalidity on actions

IF ALL OR ANY PART OF THIS CHAPTER IS INVALIDATED, SUPERSEDED, REPLACED, REPEALED OR EXPIRES FOR ANY REASON, THAT OCCURRENCE DOES NOT AFFECT THE VALIDITY OF ANY PRIOR ACTION ALLOWED UNDER THIS CHAPTER, WHETHER TAKEN BY A PUBLIC POWER ENTITY, A QUALIFIED SPECIAL PURPOSE ENTITY OR ANY OTHER PERSON, AND DOES NOT AFFECT TRANSITION BONDS THAT WERE ALREADY ISSUED OR TRANSITION PROPERTY THAT WAS ALREADY CREATED.

<<30-917. Consumer protection advocate; duties

[THE GOVERNING BODY OF A PUBLIC POWER ENTITY SHALL APPOINT AN INDIVIDUAL TO SERVE AS A CONSUMER PROTECTION ADVOCATE WHO SHALL:

1. ADVISE THE PUBLIC POWER ENTITY IN THE FOLLOWING AREAS:

(a) SECURITIZATION TRANSACTIONS, INCLUDING MARKETING AND PRICING A TRANSACTION.

(b) BOND NEGOTIATIONS.

(c) RATE INCREASES.

2. REPRESENT THE PUBLIC INTEREST OF ELECTRIC CUSTOMERS OF A PUBLIC POWER ENTITY OR A PUBLIC SERVICE CORPORATION WHO USE ELECTRIC SERVICE IN THIS STATE.]>>

Sec. 2. Title 40, Arizona Revised Statutes, is amended by adding chapter 3, to read:

CHAPTER 3

UTILITY SECURITIZATION

ARTICLE 1. GENERAL PROVISIONS

40-601. Definitions

IN THIS CHAPTER, UNLESS THE CONTEXT OTHERWISE REQUIRES:

1. "ANCILLARY AGREEMENT" MEANS ANY OF THE FOLLOWING:

(a) A BOND.

(b) AN INSURANCE POLICY.

(c) A LETTER OF CREDIT.

(d) A RESERVE ACCOUNT.

(e) AN INTEREST RATE LOCK OR SWAP ARRANGEMENT.

(f) A HEDGING ARRANGEMENT.

(g) A LIQUIDITY OR CREDIT SUPPORT ARRANGEMENT.

(h) ANY OTHER SIMILAR AGREEMENT, INSTRUMENT OR ARRANGEMENT THAT IS ENTERED INTO IN CONNECTION WITH THE ISSUANCE OF TRANSITION BONDS AND THAT IS DESIGNED TO PROMOTE THE CREDIT QUALITY AND MARKETABILITY OF THE TRANSITION BONDS OR TO REDUCE OR MITIGATE THE RISK OF AN INCREASE IN ANY FINANCING COST.

2. "APPLICANT" MEANS ANY OF THE FOLLOWING IN EACH CASE THAT FILES AN APPLICATION FOR A FINANCING ORDER WITH THE COMMISSION:

(a) A PUBLIC SERVICE CORPORATION THAT PROVIDES ELECTRIC SERVICE, INCLUDING A MEMBER-OWNED COOPERATIVE CORPORATION.

(b) A GROUP OF TWO OR MORE MEMBER-OWNED COOPERATIVES SEEKING APPROVAL OF A COMBINED COOPERATIVE SECURITIZATION. FOR THE PURPOSES OF THIS SUBDIVISION, EACH PARTICIPATING COOPERATIVE MAY BE REFERRED TO INDIVIDUALLY AS THE APPLICANT OR THE GROUP OF COOPERATIVES MAY BE REFERRED TO COLLECTIVELY AS THE APPLICANT AS THE CONTEXT INDICATES.

3. "COMBINED COOPERATIVE SECURITIZATION" MEANS A SECURITIZATION TRANSACTION UNDER THIS CHAPTER THAT INVOLVES TWO OR MORE MEMBER-OWNED COOPERATIVES ACTING TOGETHER INCLUDING A GENERATION AND TRANSMISSION COOPERATIVE AND ONE OR MORE OF ITS MEMBER DISTRIBUTION COOPERATIVES EVEN IF ALL APPLICABLE TRANSITION COSTS ARE INCURRED OR WILL BE PASSED DOWN TO THE DISTRIBUTION COOPERATIVES.

4. "COMMISSION" MEANS THE CORPORATION COMMISSION.

5. "CUSTOMER" MEANS ANY PERSON OR ENTITY WITHIN THIS STATE TO WHOM ONE OF THE FOLLOWING APPLIES:

(a) REGARDLESS OF THE IDENTITY OF THE PERSON'S OR ENTITY'S ELECTRIC GENERATION SUPPLIER AND WITHOUT REGARD TO WHETHER THE PERSON OR ENTITY

ALSO RECEIVES SERVICE FROM OTHER ELECTRIC SERVICE PROVIDERS, THE PERSON OR ENTITY RECEIVES RETAIL ELECTRIC SERVICE, WHETHER DIRECTLY OR INDIRECTLY, WHETHER BUNDLED OR UNBUNDLED AND WHETHER SUPPLY OR DELIVERY, OR BOTH, FROM ANY OF THE FOLLOWING:

(i) AN APPLICANT.

(ii) A SUCCESSOR TO AN APPLICANT.

(iii) ANY OTHER PERSON, PUBLIC SERVICE CORPORATION OR MUNICIPAL ENTITY THAT ASSUMES THE RESPONSIBILITY TO PROVIDE ELECTRIC SERVICE IN AN APPLICANT'S SERVICE TERRITORY AS THE SERVICE TERRITORY EXISTS ON THE DATE THE COMMISSION ISSUES A FINANCING ORDER.

(b) REGARDLESS OF THE IDENTITY OF THE PERSON'S OR ENTITY'S ELECTRIC GENERATION SUPPLIER AND WITHOUT REGARD TO WHETHER THE PERSON OR ENTITY ALSO RECEIVES SERVICE FROM OTHER ELECTRIC SERVICE PROVIDERS, THE PERSON OR ENTITY MAINTAINS AN INTERCONNECTION WITH THE ELECTRIC DISTRIBUTION FACILITIES OF AN APPLICANT THAT ALLOWS THAT PERSON OR ENTITY TO RECEIVE RETAIL ELECTRIC SERVICE, WHETHER BUNDLED OR UNBUNDLED AND WHETHER SUPPLY OR DELIVERY, OR BOTH, FROM ANY OF THE FOLLOWING:

(i) AN APPLICANT.

(ii) A SUCCESSOR TO AN APPLICANT.

(iii) ANY OTHER PERSON, PUBLIC SERVICE CORPORATION OR MUNICIPAL ENTITY THAT ASSUMES THE RESPONSIBILITY TO PROVIDE ELECTRIC SERVICE IN AN APPLICANT'S SERVICE TERRITORY AS THE SERVICE TERRITORY EXISTS ON THE DATE THE COMMISSION ISSUES A FINANCING ORDER.

(c) WITHOUT REGARD TO WHETHER THE PERSON OR ENTITY ALSO RECEIVES SERVICE FROM OTHER ELECTRIC SERVICE PROVIDERS, THE PERSON OR ENTITY IS A COOPERATIVE THAT PROVIDES RETAIL ELECTRIC SERVICE TO MEMBERS AND THAT RECEIVES ELECTRICITY FROM AN APPLICANT THAT PROVIDES WHOLESALE ELECTRIC GENERATION AND TRANSMISSION SERVICES.

6. "FINANCING CHARGES" MEAN NONBYPASSABLE CHARGES THAT ARE PAID OR PAYABLE BY ALL CUSTOMERS TO A QUALIFIED SPECIAL PURPOSE ENTITY TO RECOVER ONGOING FINANCING COSTS IN ACCORDANCE WITH THIS CHAPTER. FINANCING CHARGES CAN BE ADJUSTED FROM TIME TO TIME IN ACCORDANCE WITH THE TRUE-UP MECHANISM.

7. "FINANCING COST" MEANS ALL COSTS THAT ARE INCURRED BY A QUALIFIED SPECIAL PURPOSE ENTITY, INCLUDING IN CONNECTION WITH A COMBINED COOPERATIVE SECURITIZATION, TO ISSUE, RATE, MARKET, PLACE, AUTHORIZE, SUPPORT, REPAY, REFINANCE, SERVICE, ADMINISTER OR REFUND TRANSITION BONDS, WHETHER INCURRED AT, BEFORE OR AFTER ISSUANCE OR BEFORE OR AFTER THE DATE OF MATURITY INCLUDING ANY OF THE FOLLOWING:

(a) THE PRINCIPAL AND INTEREST AND ANY ACQUISITION, DEFEASANCE OR REDEMPTION PREMIUMS THAT ARE PAYABLE ON TRANSITION BONDS.

(b) THE COSTS, FEES AND EXPENSES THAT ARE RELATED TO ISSUING, RATING, MARKETING, PLACING, AUTHORIZING, SUPPORTING, REPAYING, REFINANCING, SERVICING, ADMINISTERING OR REFUNDING TRANSITION BONDS THAT INCLUDE ANY COSTS INCURRED FOR IMPLEMENTING THE TRUE-UP MECHANISM.

(c) THE COSTS, FEES AND EXPENSES OF TRUSTEES OR SIMILAR FIDUCIARIES, ATTORNEYS, ACCOUNTANTS, SERVICERS, RATING AGENCIES, DEPOSITORY AND OTHER AGENTS OR OTHER PROFESSIONALS.

(d) THE COSTS THAT ARE INCURRED UNDER AN ANCILLARY AGREEMENT AND ANY AMOUNT THAT IS REQUIRED TO REFUND OR REPLENISH A RESERVE ACCOUNT OR OTHER ACCOUNT ESTABLISHED UNDER AN ANCILLARY AGREEMENT OR OTHER DOCUMENT RELATING TO TRANSITION BONDS.

(e) THE COSTS OF FORMING, OPERATING, ADMINISTERING AND DISSOLVING A QUALIFIED SPECIAL PURPOSE ENTITY.

(f) THE COSTS, FEES AND EXPENSES THAT ARE INCURRED TO OBTAIN ANY CONSENT, RELEASE, WAIVER OR APPROVAL FROM ANY HOLDER OF AN EXISTING OBLIGATION OF AN APPLICANT THAT IS NECESSARY TO PERMIT THE ISSUANCE OF TRANSITION BONDS OR THE RETIREMENT, ABANDONMENT OR REDUCTION IN THE UNDEPRECIATED BOOK VALUE OF A TRANSITION ASSET IN CONNECTION WITH A TRANSACTION UNDER THIS CHAPTER.

(g) THE COSTS THAT ARE INCURRED TO PROTECT THE STATUS OF TRANSITION PROPERTY, THE RIGHT TO IMPOSE AND COLLECT FINANCING CHARGES OR THE RIGHT TO RECEIVE FINANCING REVENUES, INCLUDING COSTS RELATED TO ANY JUDICIAL OR OTHER PROCEEDINGS THAT ARE NECESSARY TO PROTECT THE TRANSITION PROPERTY OR COLLECT FINANCING REVENUES.

(h) FEDERAL, STATE AND OTHER TAXES THAT ARE IMPOSED ON THE APPLICANT OR THE QUALIFIED SPECIAL PURPOSE ENTITY, WITH RESPECT TO THE FINANCING CHARGES OR FINANCING REVENUES WITHOUT DUPLICATION, AND ADJUSTED TO REFLECT ANY UNRECOVERED DEFERRED INCOME TAX BALANCE ASSOCIATED WITH THE TRANSITION COSTS, AND ANY OTHER FEES, CHARGES OR OTHER ASSESSMENTS THAT ARE IMPOSED ON TRANSITION BONDS.

8. "FINANCING ORDER" MEANS AN ORDER OF THE COMMISSION THAT IS ISSUED AS PRESCRIBED IN SECTION 40-603, SUBSECTION B.

9. "FINANCING PARTY" MEANS A HOLDER OF TRANSITION BONDS AND ANY TRUSTEE, COLLATERAL AGENT OR OTHER PERSON ACTING FOR THE BENEFIT OF THE HOLDER.

10. "FINANCING REVENUES" MEANS ANY MONEY AND OTHER PROPERTY RECEIVED OR TO BE RECEIVED, DIRECTLY OR INDIRECTLY, IN PAYMENT OF OR ON ACCOUNT OF THE FINANCING CHARGES, INCLUDING ALL OF THE PROCEEDS OF THE INVESTMENT THEREOF.

11. "NONBYPASSABLE" MEANS THAT THE PAYMENT OF THE FINANCING CHARGES MAY NOT BE AVOIDED AND SHALL BE PAID BY A CUSTOMER IF, AT THE TIME INVOICES OR BILLS ARE RENDERED, TRANSITION BONDS ARE OUTSTANDING OR THE FINANCING COSTS HAVE NOT BEEN RECOVERED IN FULL. FINANCING CHARGES SHALL BE PAID REGARDLESS OF WHETHER:

(a) THE CUSTOMER IS LIABLE TO A PUBLIC SERVICE CORPORATION OR THE APPLICANT FOR ANY RATE OR OTHER CHARGES FOR ELECTRIC SERVICE.

(b) THE SYSTEM ASSETS SERVING THE CUSTOMER CONTINUE TO BE OWNED BY THE APPLICABLE APPLICANT OR OTHER PUBLIC SERVICE CORPORATION.

12. "ONGOING FINANCING COSTS":

(a) MEANS ALL FINANCING COSTS, INCLUDING THE PRINCIPAL AND INTEREST THAT ARE PAYABLE ON THE TRANSITION BONDS.

(b) DOES NOT INCLUDE UPFRONT FINANCING COSTS THAT ARE PAID BY THE QUALIFIED SPECIAL PURPOSE ENTITY DIRECTLY OR INDIRECTLY FROM THE PROCEEDS OF THE ISSUANCE OF TRANSITION BONDS.

13. "QUALIFIED SPECIAL PURPOSE ENTITY":

(a) MEANS A LEGAL ENTITY THAT:

(i) IS ESTABLISHED BY AND WHOLLY OWNED, DIRECTLY OR INDIRECTLY, BY AN APPLICANT IN WHICH AN INTEREST IN TRANSITION PROPERTY IS CREATED PURSUANT TO THIS CHAPTER AND WHICH ISSUES TRANSITION BONDS THAT ARE SECURED BY TRANSITION PROPERTY.

(ii) DOES NOT PROVIDE ELECTRIC SERVICE.

(iii) IS NOT A PUBLIC SERVICE CORPORATION.

(b) MAY NOT CONDUCT ANY BUSINESS THAT IS UNRELATED TO OWNING, PROTECTING, AND ADMINISTERING THE TRANSITION PROPERTY OR ISSUING, MARKETING, PLACING, AUTHORIZING, SUPPORTING, REPAYING, REFINANCING, SERVICING, ADMINISTERING OR REFUNDING TRANSITION BONDS.

(c) INCLUDES ANY SUCCESSOR TO OR ASSIGNEE, OTHER THAN AS SECURITY, OF THE LEGAL ENTITY.

(d) FOR A COMBINED COOPERATIVE SECURITIZATION, THE OWNERSHIP INTERESTS IN A QUALIFIED SPECIAL PURPOSE ENTITY MAY BE ALLOCATED TO THE RELEVANT COOPERATIVE APPLICANTS IN PROPORTION TO THE TRANSITION COSTS THAT ARE ALLOCATED TO EACH OF THEM OR IN ANY OTHER MANNER APPROVED BY THE FINANCING ORDER.

14. "SERVICER":

(a) MEANS A PERSON OR ENTITY THAT IS AUTHORIZED AND REQUIRED BY A CONTRACT, TARIFF OR OTHERWISE, TO DO ALL OF THE FOLLOWING:

(i) CALCULATE, BILL OR COLLECT FINANCING CHARGES ON BEHALF OF A QUALIFIED SPECIAL PURPOSE ENTITY.

(ii) PREPARE PERIODIC REPORTS ON THE BILLING OF FINANCING CHARGES AND THE COLLECTION OF FINANCING REVENUES.

(iii) RENDER OTHER SERVICES RELATED TO FINANCING CHARGES AND THE TRANSITION PROPERTY, INCLUDING ADMINISTERING THE TRUE-UP MECHANISM.

(b) INCLUDES:

(i) A PUBLIC SERVICE CORPORATION, INCLUDING AN APPLICANT.

(ii) A THIRD-PARTY SERVICER THAT COLLECTS FINANCE CHARGES UNDER A TRANSITION BILLING SERVICES TARIFF.

15. "SIGNIFICANT EVENT RECOVERY COSTS":

(a) MEANS COSTS, FEES AND EXPENSES THAT ARE INCURRED OR TO BE INCURRED THROUGH THE DATE OF ISSUANCE OF A FINANCING ORDER BY A PUBLIC SERVICE CORPORATION AND THAT ARE ASSOCIATED WITH OR THAT ARISE FROM WEATHER, WILDFIRE OR PUBLIC HEALTH EMERGENCY EVENTS OR INCIDENTS OR OTHER EVENTS OR INCIDENTS THAT CAUSE OR THREATEN TO CAUSE SIGNIFICANT LOSS OF LIFE, INJURY TO PERSON OR PROPERTY, HUMAN SUFFERING OR FINANCIAL LOSS [BY FORCES OR ACTION OUTSIDE OF THE APPLICANT'S CONTROL].

(b) FOR A COMBINED COOPERATIVE SECURITIZATION, MAY INCLUDE COSTS THAT HAVE BEEN INCURRED BY A GENERATION AND TRANSMISSION COOPERATIVE APPLICANT THAT WOULD OTHERWISE BE PASSED ON TO DISTRIBUTION COOPERATIVE APPLICANTS IN WHOLESALE POWER OR SIMILAR CHARGES, REGARDLESS OF WHETHER THE COSTS HAVE BEEN PASSED THROUGH TO DISTRIBUTION COOPERATIVE APPLICANTS AT ANY GIVEN TIME.

16. "THIRD-PARTY SERVICER" MEANS A PERSON, OTHER THAN AN APPLICANT, THAT IS ENGAGED TO ACT AS A SERVICER FOR TRANSITION BONDS IN THE EVENT AN APPLICANT IS UNABLE TO ACT AS A SERVICER.

17. "TRANSITION ASSET" MEANS ANY ELECTRIC POWER GENERATION, TRANSMISSION OR DISTRIBUTION FACILITIES, INCLUDING OTHER PROPERTY OR EQUIPMENT THAT IS [~~USED~~][OWNED] BY THE APPLICANT AND THAT IS IDENTIFIED IN AN APPLICATION FOR A FINANCING ORDER, AND THAT EITHER:

(a) HAS BEEN RETIRED AND NO LONGER PROVIDES SERVICE[~~, IN WHOLE OR IN PART~~].

(b) AS OF THE DATE OF THE APPLICATION, IS PLANNED TO BE RETIRED, [~~SOLD,~~] DISPOSED OF, ABANDONED OR OTHERWISE REMOVED FROM SERVICE BY THE APPLICANT[~~, IN WHOLE OR IN PART~~], WITHIN [~~TEN~~][FIVE] YEARS AFTER THE DATE OF THE APPLICATION.

(c) HAS OTHERWISE BEEN DESTROYED, DAMAGED OR RENDERED INOPERABLE[~~, IN WHOLE OR IN PART,~~] BY FORCES OR ACTION OUTSIDE OF THE APPLICANT'S REASONABLE CONTROL.

18. "TRANSITION ASSET RETIREMENT COSTS":

(a) MEANS THE UNDEPRECIATED VALUE, UNRECOVERED BALANCE OR PORTION THEREOF AS TO ANY TRANSITION ASSET THAT IS INCLUDED IN THE APPLICANT'S RATE BASE OR THAT IS RECOVERED THROUGH RATES THAT WILL BE PERMANENTLY REDUCED WHEN THE TRANSITION BONDS ARE ISSUED AND THE APPLICANT RECEIVES THE TRANSFER OF FUNDS AS DESCRIBED IN SECTION 40-606, SUBSECTION A IN CONNECTION WITH A TRANSACTION AUTHORIZED BY THIS CHAPTER AND ANY COSTS, FEES AND EXPENSES INCURRED TO RETIRE, ABANDON OR REDUCE THE UNDEPRECIATED BOOK VALUE OF SUCH TRANSITION ASSET IN CONNECTION WITH A TRANSACTION UNDER THIS CHAPTER, INCLUDING WITHOUT LIMITATION DECOMMISSIONING, REMEDIATION OR RESTORATION COSTS ASSOCIATED WITH THE TRANSITION ASSET.

(b) FOR A COMBINED COOPERATIVE SECURITIZATION, MAY INCLUDE COSTS THAT HAVE BEEN INCURRED BY A GENERATION AND TRANSMISSION COOPERATIVE APPLICANT THAT WOULD OTHERWISE BE PASSED ON TO DISTRIBUTION COOPERATIVE APPLICANTS IN WHOLESALE POWER OR SIMILAR CHARGES, REGARDLESS OF WHETHER SUCH COSTS HAVE BEEN PASSED THROUGH TO DISTRIBUTION COOPERATIVE APPLICANTS AT ANY GIVEN TIME.

19. "TRANSITION BENEFIT TEST" MEANS THE ASSESSMENT DESCRIBED IN SECTION 40-603, SUBSECTION B, PARAGRAPH 2.

20. "TRANSITION BILLING SERVICES TARIFF":

(a) MEANS A TARIFF OF A PUBLIC SERVICE CORPORATION, INCLUDING AN APPLICANT, THAT AUTHORIZES THE PUBLIC SERVICE CORPORATION, APPLICANT OR OTHER PERSON TO ACT AS A SERVICER.

(b) MAY NOT SPECIFY OR ALTER THE AMOUNT OF ANY FINANCING CHARGES NOR GRANT THE SERVICER ANY RIGHT, TITLE OR INTEREST IN FINANCING REVENUES.

21. "TRANSITION BONDS" MEANS BONDS, NOTES OR OTHER EVIDENCES OF INDEBTEDNESS THAT ARE ISSUED BY A QUALIFIED SPECIAL PURPOSE ENTITY AND THAT ARE DESCRIBED IN AN APPLICATION FOR A FINANCING ORDER, THE PROCEEDS OF WHICH ARE USED, DIRECTLY OR INDIRECTLY, TO RECOVER, FINANCE, REFINANCE OR REFUND TRANSITION COSTS AND UPFRONT FINANCING COSTS AND THAT ARE DIRECTLY OR INDIRECTLY PAYABLE FROM, OR SECURED BY, TRANSITION PROPERTY, FINANCING CHARGES OR FINANCING REVENUES.

22. "TRANSITION COSTS"[:]

[(a)] INCLUDES ANY OF THE FOLLOWING:

[~~(a)~~][(i)] TRANSITION ASSET RETIREMENT COSTS.

[~~(b)~~][(ii)] UNRECOVERED FUEL COSTS.

[~~(c)~~][(iii)] SIGNIFICANT EVENT RECOVERY COSTS.

[(b) DOES NOT INCLUDE ANY MONETARY PENALTY, FINE OR FORFEITURE THAT IS ASSESSED AGAINST A PUBLIC SERVICE CORPORATION BY A GOVERNMENTAL AGENCY OR COURT UNDER A FEDERAL OR STATE LAW, RULE OR REGULATION.]

23. "TRANSITION PROPERTY":

(a) MEANS THE PROPERTY RIGHTS AND PROPERTY INTERESTS OF A QUALIFIED SPECIAL PURPOSE ENTITY, ANY HOLDERS OF TRANSITION BONDS WHEN ISSUED OR ANY TRANSFEREE OR ASSIGNEE THEREOF THAT ARE CREATED OR RECOGNIZED AS A RESULT OF A TRANSACTION AUTHORIZED BY THIS CHAPTER AND IS NOT AN ASSET OF THE APPLICANT OR ANY OTHER PUBLIC SERVICE CORPORATION.

(b) INCLUDES ANY OF THE FOLLOWING:

(i) ALL RIGHTS AND INTERESTS OF A QUALIFIED SPECIAL PURPOSE ENTITY UNDER A FINANCING ORDER.

(ii) THE RIGHT TO IMPOSE, CHARGE, COLLECT AND RECEIVE FINANCING CHARGES, INCLUDING THE RIGHT TO CALCULATE, IMPOSE, CHARGE, COLLECT AND RECEIVE ADJUSTMENTS TO THE FINANCING CHARGES PURSUANT TO THE TRUE-UP MECHANISM.

(iii) ALL RIGHT AND TITLE TO, AND ALL INTEREST IN, FINANCING REVENUES, REGARDLESS OF WHETHER THE REVENUES ARE BILLED, RECEIVED, COLLECTED OR MAINTAINED SEPARATELY FROM OR COMMINGLED WITH OTHER REVENUES OR MONIES OF ANY TYPE AND REGARDLESS OF WHETHER THE REVENUES ARE BILLED OR COLLECTED BY A SERVICER.

(iv) ALL RESERVES THAT ARE ESTABLISHED IN CONNECTION WITH THE TRANSITION BONDS OR THE TRANSITION PROPERTY.

(v) ALL RIGHTS OF A QUALIFIED SPECIAL PURPOSE ENTITY UNDER ANY ANCILLARY AGREEMENT.

24. "TRUE-UP MECHANISM":

(a) MEANS A FORMULA, DESCRIBED IN THE APPLICATION FOR A FINANCING ORDER AND ESTABLISHED BEFORE OR CONCURRENT WITH THE ISSUANCE OF TRANSITION BONDS, THAT ADJUSTS FINANCING CHARGES OVER TIME TO CORRECT FOR ANY OVERCOLLECTION OR UNDERCOLLECTION OF FINANCING REVENUES SO THAT A

QUALIFIED SPECIAL PURPOSE ENTITY TIMELY AND COMPLETELY RECOVERS ALL ONGOING FINANCING COSTS.

(b) FOR A COMBINED COOPERATIVE SECURITIZATION AND IN ADDITION TO THE MECHANISM DESCRIBED IN SUBDIVISION (a) OF THIS PARAGRAPH, MEANS A MECHANISM THAT MAY ALSO BE USED TO ALLOCATE OR REALLOCATE FINANCING COSTS TO THE CUSTOMERS OF THE COOPERATIVE APPLICANTS.

25. "UNIT FINANCING CHARGE" MEANS THE SHARE OR PORTION OF THE FINANCING CHARGES THAT ARE IMPOSED ON, PAID BY AND COLLECTED FROM A PARTICULAR CUSTOMER OR FROM EVERY CUSTOMER IN A PARTICULAR GROUP OF CUSTOMERS AND MAY DIFFER BETWEEN CUSTOMERS AND GROUPS OF CUSTOMERS, BUT IF THEY DO, EACH CUSTOMER GROUP AND HOW IT IS DEFINED SHALL ALSO BE DESCRIBED IN THE APPLICATION. UNIT FINANCING CHARGES ARE DETERMINED, AND IMPOSED, WITHOUT REGARD TO WHETHER, OR TO WHAT EXTENT, A CUSTOMER USES THE SERVICES OF ANY PUBLIC SERVICE CORPORATION DURING THE PERIOD IN WHICH A PARTICULAR UNIT FINANCING CHARGE WILL APPLY.

26. "UNRECOVERED FUEL COSTS":

(a) MEANS FOR ANY APPLICANT:

(i) THE UNRECOVERED AMOUNTS OF PREVIOUSLY INCURRED COSTS, FEES AND EXPENSES TO PURCHASE FUEL USED TO GENERATE ELECTRICITY.

(ii) THE UNRECOVERED AMOUNTS OF PREVIOUSLY INCURRED COSTS, FEES AND EXPENSES TO PURCHASE ELECTRICITY, CAPACITY OR ANY OTHER COMPONENT OF WHOLESALE ELECTRICITY TRANSACTIONS FROM A THIRD PARTY, INCLUDING IN TRANSACTIONS BETWEEN COOPERATIVES.

(iii) ANY DEBT OR OTHER CARRYING COSTS ASSOCIATED WITH THE APPLICANT'S UNRECOVERED FUEL OR PURCHASED POWER BALANCES.

(b) FOR A COMBINED COOPERATIVE SECURITIZATION, MAY INCLUDE UNRECOVERED FUEL COSTS THAT HAVE BEEN INCURRED BY A GENERATION AND TRANSMISSION COOPERATIVE APPLICANT THAT OTHERWISE WOULD BE PASSED ON TO DISTRIBUTION COOPERATIVE APPLICANTS IN WHOLESALE POWER OR SIMILAR CHARGES REGARDLESS OF WHETHER THE UNRECOVERED FUEL COSTS HAVE BEEN PASSED THROUGH TO DISTRIBUTION COOPERATIVE APPLICANTS AT ANY GIVEN TIME.

27. "UPFRONT FINANCING COSTS":

(a) MEANS THOSE FINANCING COSTS THAT ARE PAID DIRECTLY OR INDIRECTLY FROM THE PROCEEDS OF TRANSITION BONDS, BY THE QUALIFIED SPECIAL PURPOSE ENTITY.

(b) INCLUDES ALL OR A PORTION OF THE COSTS OF OBTAINING A FINANCING ORDER AND DESIGNING, MARKETING, OBTAINING RATINGS FOR AND ISSUING TRANSITION BONDS.

40-602. Statement of public policy

A. IT IS THE PUBLIC POLICY OF THIS STATE TO GAIN THE BENEFITS OF SECURITIZATION BY ESTABLISHING IRREVOCABLE FINANCING CHARGES THAT ARE PAYABLE TO A QUALIFIED SPECIAL PURPOSE ENTITY AND BY CREATING AND VESTING A PRESENT AND ALIENABLE PROPERTY INTEREST IN FINANCING REVENUES IN A QUALIFIED SPECIAL PURPOSE ENTITY. THOSE BENEFITS INCLUDE REDUCING ALL OF THE FOLLOWING:

1. THE CONTRIBUTION OF ASSETS, WHICH ARE SUBJECT TO POTENTIAL RETIREMENT, ABANDONMENT, [~~SALE,~~] DISPOSITION[,] [~~OR~~] TRANSITION [OR OTHERWISE REMOVED FROM SERVICE], OR THAT HAVE BEEN DAMAGED OR DESTROYED, TO THE RATE BASE, OR AS WOULD OTHERWISE BE RECOVERED THROUGH RATES, OF PUBLIC SERVICE CORPORATIONS AND ANY ASSOCIATED LIABILITIES.

2. THE UNRECOVERED COSTS OF FUEL OR PURCHASED POWER.

3. THE COSTS ARISING FROM OR RELATED TO WEATHER, WILDFIRE OR OTHER SIGNIFICANT EVENTS OR INCIDENTS THAT CAUSE OR THREATEN TO CAUSE SIGNIFICANT LOSS OF LIFE, INJURY TO PERSON OR PROPERTY, HUMAN SUFFERING OR FINANCIAL LOSS [BY FORCES OR ACTION OUTSIDE OF THE APPLICANT'S CONTROL].

B. THE USE OF LOW-COST SECURITIZED BORROWING BY A SEPARATE SPECIAL PURPOSE ENTITY IS INTENDED TO ENABLE PUBLIC SERVICE CORPORATIONS TO ACHIEVE THE BENEFITS OF SECURITIZATION FOR CUSTOMERS BY REINVESTING CAPITAL NOW COMMITTED TO PAYING THE COSTS RELATED TO THE PRODUCTION AND DELIVERY OF ENERGY FROM NEW FACILITIES, RESOURCES OR OTHER ASSETS.

[C. AFFORDABILITY AND RELIABILITY OF THIS STATE'S ELECTRIC SYSTEM IS FUNDAMENTAL TO THE HEALTH AND WELFARE OF THIS STATE AND THIS STATE'S CITIZENRY AND ECONOMY. AS SECURITIZATION CREATES BROAD NEW AUTHORITY FOR ELECTRIC SERVICE PROVIDERS, IT IS IN THE BEST INTEREST OF THIS STATE AND THIS STATE'S ELECTRIC CUSTOMERS FOR THE COMMISSION TO CONDUCT THE SECURITIZATION PROCESS TO ENSURE THAT THIS NEW FINANCIAL TOOL IS BEING USED PRUDENTLY AND IS NOT NEGATIVELY IMPACTING THE AFFORDABILITY OF ELECTRICITY FOR THIS STATE'S ELECTRIC CUSTOMERS.]

40-603. Securitization transactions; initiation; financing order; application requirements; transition benefit test; timeframes; report

A. AN APPLICANT MAY REQUEST PERMISSION TO INITIATE A SECURITIZATION TRANSACTION FROM THE COMMISSION BY SUBMITTING AN APPLICATION FOR A FINANCING ORDER. THE APPLICATION SHALL:

1. IDENTIFY, AS APPLICABLE, ANY TRANSITION ASSETS, TRANSITION ASSET RETIREMENT COSTS, UNRECOVERED FUEL COSTS OR SIGNIFICANT EVENT RECOVERY COSTS. FOR THE PURPOSES OF THIS PARAGRAPH, "UNRECOVERED FUEL COSTS":

(a) INCLUDES AMOUNTS OF UNRECOVERED FUEL OR PURCHASED POWER EXPENSES WITH ASSOCIATED DEBT OR OTHER CARRYING COSTS.

(b) AS DETERMINED BY THE COMMISSION, SHALL BE SIGNIFICANT AND ARISE FROM ANY OF THE FOLLOWING:

(i) SUPPLY SHORTAGES.

(ii) DISRUPTIONS IN THE TRANSPORTATION INFRASTRUCTURE OR SUPPLY CHAINS.

(iii) MARKET VOLATILITY.

(iv) SUBSTANTIAL CUSTOMER LOAD GROWTH.

(v) ANY OTHER REASONABLY UNFORESEEN CIRCUMSTANCE.

2. ESTIMATE THE TRANSITION COSTS AND FINANCING COSTS.

3. DESCRIBE THE EXPECTED CHARACTERISTICS OF THE TRANSITION BONDS.

4. PROJECT THE FINANCING CHARGES AND EXPLAIN HOW THE FINANCING CHARGES WILL RESULT IN THE COLLECTION OF FINANCING REVENUES IN AMOUNTS SUFFICIENT BUT NOT GREATER THAN NECESSARY TO ENABLE THE TIMELY AND COMPLETE RECOVERY AND PAYMENT OF ALL ONGOING FINANCING COSTS.

5. ESTIMATE THE FINANCING CHARGES AND UNIT FINANCING CHARGES BEFORE THE FIRST APPLICATION OF THE TRUE-UP MECHANISM.

6. DESCRIBE THE PROPOSED TRUE-UP MECHANISM AND HOW THE TRUE-UP MECHANISM WILL ADJUST THE FINANCING CHARGES AND UNIT FINANCING CHARGES OVER TIME TO CORRECT FOR ANY OVERCOLLECTION OR UNDERCOLLECTION OF FINANCING REVENUES.

7. IDENTIFY THE QUALIFIED SPECIAL PURPOSE ENTITY.

8. INCLUDE A REPORT THAT IS PREPARED BY A SECURITIES FIRM EXPERIENCED IN UNDERWRITING AND BOND ISSUANCE AND THAT CONCLUDES THE TRANSITION BONDS ARE EXPECTED TO SATISFY THE CURRENT PUBLISHED CRITERIA FOR AN AAA RATING OR THE EQUIVALENT.

9. IDENTIFY ANY ANTICIPATED ANCILLARY AGREEMENTS, INDIVIDUALLY OR BY DESCRIPTION.

10. DESCRIBE HOW THE APPLICANT PROPOSES TO PERMANENTLY REDUCE OR OFFSET THE VALUE OF EITHER:

(a) UNDEPRECIATED TRANSITION ASSETS IN RATE BASE OR RECOVERED THROUGH RATES AND ANY ASSOCIATED REGULATORY ASSETS OR RECORDED LIABILITIES WITH RESPECT TO AN OFFERING OF TRANSITION BONDS TO RECOVER TRANSITION ASSET RETIREMENT COSTS.

(b) ANY REGULATORY ASSET OR RECORDED LIABILITY THAT IS ASSOCIATED WITH TRANSITION BONDS TO RECOVER UNRECOVERED FUEL COSTS OR SIGNIFICANT EVENT RECOVERY COSTS IN EXCHANGE FOR THE NET PROCEEDS OF THE TRANSITION BONDS.

11. INCLUDE A PROPOSED TRANSITION BILLING SERVICES TARIFF IF THE PROPOSED INITIAL SERVICER IS A PUBLIC SERVICE CORPORATION.

12. COMMIT TO MAKING AN INFORMATIONAL FILING WITH THE COMMISSION THAT WILL DESCRIBE THE FINAL STRUCTURE AND PRICING OF THE TRANSITION BONDS, A STATEMENT OF ACTUAL UPFRONT FINANCING COSTS AND AN UPDATED CALCULATION OF THE ESTIMATED FINANCING CHARGES AND UNIT FINANCING CHARGES OVER THE LIFE OF THE TRANSITION BONDS.

13. PROVIDE A PROPOSED FINANCING ORDER.

14. FOR A COMBINED COOPERATIVE SECURITIZATION, DESCRIBE THE ALLOCATION OF FINANCING COSTS OR FINANCING CHARGES AND UNIT FINANCING CHARGES TO EACH COOPERATIVE APPLICANT'S CUSTOMERS, AS WELL AS HOW THE TRUE-UP MECHANISM WILL ALLOCATE OR REALLOCATE FINANCING COSTS TO THE COOPERATIVE APPLICANT'S CUSTOMERS OVER TIME.

B. THE COMMISSION SHALL ISSUE A FINANCING ORDER THAT APPROVES, REJECTS OR APPROVES WITH CONDITIONS THE INITIATION OF THE PROPOSED TRANSACTION. THE COMMISSION MAY APPROVE OR APPROVE WITH CONDITIONS THE PROPOSED TRANSACTION ONLY IF THE COMMISSION FINDS THAT:

1. THE APPLICATION COMPLIES WITH ALL OF THE REQUIREMENTS PRESCRIBED IN SUBSECTION A OF THIS SECTION.

2. THE TRANSITION BENEFIT TEST IS SATISFIED. THE TRANSITION BENEFIT TEST IS SATISFIED ON A SHOWING OF ALL OF THE FOLLOWING:

(a) THE PROJECTED NET PRESENT VALUE OVER THE TERM OF THE TRANSITION BONDS OF THE FINANCING CHARGES MINUS, TO THE EXTENT APPLICABLE, THE REVENUE REQUIREMENT CREDITS THAT ARISE FROM ANY DEFERRED INCOME TAX BALANCES ASSOCIATED WITH THE TRANSITION COST WILL BE SMALLER IN ABSOLUTE VALUE THAN THE PROJECTED NET PRESENT VALUE THAT IS CALCULATED AT THE SAME DISCOUNT RATE OF THE PORTION OF THE ANNUAL REVENUE REQUIREMENTS OF THE APPLICANT THAT IS ASSOCIATED WITH THE TRANSITION COST, IF THE COST WERE TO BE FINANCED DIRECTLY BY THE APPLICANT.

(b) THE PROPOSED STRUCTURE AND PROJECTED PRICING OF THE TRANSITION BONDS ARE REASONABLY EXPECTED TO RESULT, ON A NET PRESENT VALUE BASIS OVER THE LIFE OF THE TRANSITION BONDS, IN THE LOWEST FINANCING CHARGES THAT ARE COMMERCIALLY AVAILABLE CONSISTENT WITH MARKET CONDITIONS AT THE TIME THE TRANSITION BONDS ARE PRICED AND WITH THE TERMS OF THE FINANCING ORDER.

(c) FOR A FINANCING APPLICATION THAT INVOLVES A TRANSITION ASSET THAT IS AN ELECTRIC POWER GENERATION FACILITY THAT WILL BE OR HAS BEEN RETIRED, SOLD, ABANDONED, DISPOSED OF OR OTHERWISE REMOVED FROM SERVICE OF THE APPLICANT'S CUSTOMERS, IN WHOLE OR IN PART, AS PROVIDED IN SECTION 40-601, PARAGRAPH 17, SUBDIVISIONS (a) AND (b), THE REPLACEMENT MEANS OF SATISFYING THE CUSTOMER LOAD SERVED BY THE ELECTRIC POWER GENERATION FACILITY THAT WILL BE OR HAS BEEN REMOVED FROM SERVICE IS MORE COST-EFFECTIVE FOR THE APPLICANT'S CUSTOMERS THAN CONTINUED RELIANCE ON OR OPERATION OF THE ELECTRIC POWER GENERATION FACILITY THAT WILL BE OR HAS BEEN REMOVED FROM SERVICE. COST-EFFECTIVENESS SHALL BE DETERMINED BY COMPARING THE SUM OF THE NET PRESENT VALUE OF ALL THE COSTS AND EXPENSES OF RELIABLE REPLACEMENT GENERATION OF EQUAL OR GREATER CONTRIBUTION TOWARD THE UTILITY'S RESOURCE ADEQUACY THAN THE ELECTRIC POWER GENERATION FACILITY THAT WILL BE OR HAS BEEN REMOVED FROM SERVICE OVER THE REPLACEMENT GENERATION'S EXPECTED USEFUL LIFE COMBINED WITH THE PROJECTED NET PRESENT VALUE TO RATEPAYERS OF THE TOTAL EXPECTED COST OF THE TRANSITION BONDS OVER THE TERM OF SUCH BONDS, AS COMPARED TO THE NET PRESENT VALUE TO RATEPAYERS OF THE COST, INCLUDING ANY UNRECOVERED COSTS ASSOCIATED WITH UNDEPRECIATED VALUE OR UNRECOVERED BALANCES OF THE TRANSITION ASSET IF SUCH COSTS WERE TO BE FINANCED DIRECTLY BY THE APPLICANT, OF CONTINUING TO OPERATE THE ELECTRIC POWER GENERATION FACILITY THAT WILL BE OR HAS BEEN REMOVED FROM SERVICE OVER AN EQUIVALENT TIME FRAME REGARDLESS OF THE FUEL SOURCE OF THE POWER GENERATION. THE COST-EFFECTIVE EVALUATION SHALL INCLUDE A DESCRIPTION OF A PORTFOLIO THAT CONTAINS NEW AND EXISTING RESOURCES THAT WILL PROVIDE RELIABLE REPLACEMENT GENERATION OF EQUIVALENT RESOURCE ADEQUACY AS THE ELECTRIC POWER GENERATION THAT WILL BE OR HAS BEEN REMOVED FROM SERVICE.

3. THE PROPOSED TRANSITION BILLING SERVICES TARIFF IS JUST AND REASONABLE, IS IN THE PUBLIC INTEREST AND SHOULD BE IN EFFECT.

4. THE PROPOSED TRANSACTION, AS DESCRIBED IN THE APPLICATION FOR A FINANCING ORDER, IS JUST AND REASONABLE, IS IN THE PUBLIC INTEREST AND SHOULD BE PUT INTO EFFECT.

C. THE COMMISSION SHALL ISSUE A FINAL DECISION REGARDING THE APPLICATION FOR A FINANCING ORDER WITHIN ONE HUNDRED TWENTY DAYS AFTER THE DATE THE APPLICATION FOR THE FINANCING ORDER WAS FILED. THE COMMISSION MAY EXTEND THE TIME FOR AN ADDITIONAL NINETY DAYS FOR GOOD CAUSE SHOWN.

D. THE PARENT, HOLDING OR OTHER DIRECT BENEFICIAL OWNER OF AN APPLICANT THAT IS ALSO A PUBLIC SERVICE COMPANY MAY NOT PURCHASE TRANSITION BONDS.

[E. ON JANUARY 1 AND JUNE 1 OF EACH YEAR, A SERVICER SHALL FILE A REPORT WITH THE COMMISSION THAT INCLUDES THE TOTAL NUMBER OF TRANSITION BONDS THAT WERE ISSUED AND THE TOTAL AMOUNT OF PAYMENTS THAT WERE COLLECTED FROM UTILITY CUSTOMERS.]

40-604. Commission authority; jurisdiction

A. ON AN APPLICANT'S RECEIPT OF THE NET PROCEEDS OF THE ISSUANCE OF THE TRANSITION BONDS UNDER SECTION 40-606, SUBSECTION A, THE COMMISSION HAS THE AUTHORITY TO ENSURE THAT:

1. ANY UNDEPRECIATED VALUE OF THE TRANSITION ASSETS ON THE APPLICANT'S BOOKS ARE REDUCED BY THE CORRESPONDING AMOUNT, INCLUDING ANY REDUCTIONS IN ASSOCIATED REGULATORY ASSETS OR RECORDED LIABILITIES, AS APPLICABLE.

2. ANY REGULATORY ASSETS THAT ARE RELATED TO UNRECOVERED FUEL COSTS OR SIGNIFICANT EVENT RECOVERY COSTS ARE REDUCED BY THAT CORRESPONDING AMOUNT.

3. ANY INCURRED COSTS OF A RECORDED LIABILITY THAT ARE INCURRED AND ASSOCIATED WITH UNRECOVERED FUEL COSTS OR SIGNIFICANT EVENT RECOVERY COSTS ARE REDUCED BY THAT CORRESPONDING AMOUNT.

B. THIS CHAPTER DOES NOT ABROGATE OR PREVENT THE COMMISSION'S AUTHORITY TO DO ANY OF THE FOLLOWING:

1. ESTABLISH AND REGULATE RATES OF PUBLIC SERVICE CORPORATIONS.

2. INVESTIGATE THE PRACTICES OF PUBLIC SERVICE CORPORATIONS.

3. REVIEW AND AUDIT THE BOOKS AND RECORDS OF PUBLIC SERVICE CORPORATIONS, INCLUDING THE ACTIONS TAKEN UNDER A TRANSITION BILLING SERVICES TARIFF AND THE RECEIPT, HANDLING AND REMITTANCE TO THE QUALIFIED SPECIAL PURPOSE ENTITY OF FINANCING REVENUES.

4. INVESTIGATE AN APPLICANT'S COMPLIANCE WITH THE TERMS AND CONDITIONS OF A FINANCING ORDER AND TO REQUIRE THAT THE APPLICANT COMPLY WITH THE FINANCING ORDER.

5. IMPOSE REGULATORY SANCTIONS ON AN APPLICANT FOR THE WILFUL FAILURE TO COMPLY WITH A FINANCING ORDER OR THIS CHAPTER.

C. THE COMMISSION SHALL NOT ORDER OR REQUIRE, DIRECTLY OR AS A CONDITION FOR ANY OTHER ACTION OR FINDING, A PUBLIC SERVICE CORPORATION TO

APPLY FOR PERMISSION TO INITIATE A SECURITIZATION TRANSACTION UNDER THIS CHAPTER OR TO ENGAGE IN A TRANSACTION AUTHORIZED BY THIS CHAPTER.

D. EXCEPT AS PROVIDED IN SECTION 40-610, THIS CHAPTER DOES NOT PRECLUDE THE COMMISSION FROM CONSIDERING THE BILL IMPACT OF UNIT FINANCING CHARGES WHEN DETERMINING THE DESIGN OF THE RATES WITHIN ITS JURISDICTION OR THE ALLOCATION OF THE COSTS TO AND AMONG PERSONS OR GROUPS OF PERSONS PAYING THE RATES.

40-605. Transition property; property rights; default on transition bonds

A. TRANSITION PROPERTY IS IMMEDIATELY CREATED BY OPERATION OF LAW ON THE LATTER OF THE APPROVAL OF A FINANCING ORDER, THE CREATION AND CAPITALIZATION OF THE QUALIFIED SPECIAL PURPOSE ENTITY AND ISSUANCE AND RECEIPT OF VALUE FOR THE APPLICABLE TRANSITION BONDS. TRANSITION PROPERTY CONTINUES TO EXIST UNTIL THE CORRESPONDING TRANSITION BONDS AND ALL ONGOING FINANCING COSTS RELATED TO THE TRANSITION BONDS HAVE BEEN FULLY PAID. ON CREATION, TRANSITION PROPERTY BELONGS TO THE QUALIFIED SPECIAL PURPOSE ENTITY. A QUALIFIED SPECIAL PURPOSE ENTITY MAY NOT CONDUCT ANY BUSINESS UNRELATED TO OWNING, PROTECTING AND ADMINISTERING THE TRANSITION PROPERTY OR ISSUING, MARKETING, PLACING, AUTHORIZING, SUPPORTING, REPLAYING, REFINANCING, SERVICING, ADMINISTERING OR REFUNDING TRANSITION BONDS.

B. TRANSITION PROPERTY CONSTITUTES A VESTED, EXISTING, PRESENT, CONTINUING AND IRREVOCABLE PROPERTY RIGHT FOR ALL PURPOSES, NOTWITHSTANDING THE FACT THAT THE VALUE OF THE PROPERTY MAY DEPEND ON, OR BE AFFECTED BY, EVENTS OR ACTIONS THAT HAVE NOT YET OCCURRED. TRANSITION PROPERTY SHALL NOT BE AN ASSET OF THE APPLICANT OR ANY OTHER PUBLIC SERVICE CORPORATION.

C. AN APPLICANT MAY NOT HAVE AN OWNERSHIP OR BENEFICIAL INTEREST OR ANY CLAIM OF RIGHT IN THE TRANSITION PROPERTY, OTHER THAN THE REQUIREMENT TO CALCULATE, IMPOSE, CHARGE, COLLECT AND RECEIVE THE FINANCING CHARGES AS SERVICER AND TRANSFER THE RESULTING FINANCING REVENUES TO THE QUALIFIED SPECIAL PURPOSE ENTITY THAT IS ENTITLED TO RECEIVE THOSE FINANCING REVENUES.

D. THE QUALIFIED SPECIAL PURPOSE ENTITY MAY PLEDGE ALL OR ANY PORTION OF THE TRANSITION PROPERTY TO SECURE THE TIMELY AND COMPLETE PAYMENT OF TRANSITION BONDS AND FINANCING COSTS.

E. TRANSITION PROPERTY, FINANCING CHARGES, FINANCING REVENUES AND THE INTERESTS OF A FINANCING PARTY OR ANY OTHER PERSON IN TRANSITION PROPERTY OR IN FINANCING REVENUES ARE NOT SUBJECT TO OFFSET, COUNTERCLAIM, SURCHARGE OR DEFENSE BY A SERVICER, A CUSTOMER, AN APPLICANT, A CREDITOR OF AN APPLICANT, A CREDITOR OF THE QUALIFIED SPECIAL PURPOSE ENTITY OR ANY OTHER PERSON, OR IN CONNECTION WITH ANY DEFAULT, BANKRUPTCY, REORGANIZATION OR OTHER INSOLVENCY PROCEEDING OF ANY SUCH PERSON.

F. IF THERE IS A DEFAULT ON THE TRANSITION BONDS, BOTH OF THE FOLLOWING APPLY:

1. ANY SECURED PARTY HAS THE RIGHT TO FORECLOSE ON TRANSITION PROPERTY OR OTHERWISE ENFORCE ITS RIGHTS AS TO THE TRANSITION PROPERTY IN THE SAME MANNER AS IF IT WERE A SECURED PARTY UNDER THE UNIFORM COMMERCIAL CODE.

2. ON APPLICATION BY AN INTERESTED PARTY, AND WITHOUT LIMITING PARAGRAPH 1 OF THIS SUBSECTION OR ANY OTHER REMEDIES AVAILABLE TO THE APPLYING PARTY, A COURT SHALL ORDER THE SEQUESTRATION AND PAYMENT OF THE MONIES ARISING FROM THE TRANSITION PROPERTY TO THE PERSON THAT IS ENTITLED TO RECEIVE THE MONIES. THE ORDER SHALL REMAIN IN FULL FORCE AND EFFECT NOTWITHSTANDING ANY BANKRUPTCY, REORGANIZATION OR OTHER INSOLVENCY OR RECEIVERSHIP PROCEEDINGS OF AN APPLICANT OR THE QUALIFIED SPECIAL PURPOSE ENTITY.

G. FOR THE PURPOSES OF THIS CHAPTER, TRANSITION PROPERTY SHALL BE IN EXISTENCE REGARDLESS OF WHETHER THE REVENUES OR PROCEEDS WITH RESPECT TO SUCH PROPERTY HAVE ACCRUED AND REGARDLESS OF WHETHER THE VALUE OF THE PROPERTY RIGHT IS DEPENDENT ON CUSTOMERS RECEIVING SERVICE.

40-606. <u>Transition bonds; issuance; authority of qualified special purpose entity; reimbursement of costs</u>

A. AFTER APPROVAL OF A FINANCING ORDER ISSUED PURSUANT TO SECTION 40-603, THE QUALIFIED SPECIAL PURPOSE ENTITY IS AUTHORIZED TO ISSUE ONE OR MORE SERIES, CLASSES OR TRANCHES OF TRANSITION BONDS AND TO PLEDGE TRANSITION PROPERTY TO SECURE THE PAYMENT OF ONGOING FINANCING COSTS. ON ISSUANCE OF THE TRANSITION BONDS, THE QUALIFIED SPECIAL PURPOSE ENTITY SHALL TRANSFER TO THE APPLICANT THE NET PROCEEDS OF THE TRANSITION BONDS MINUS THE UPFRONT FINANCING COSTS PAID BY THE QUALIFIED SPECIAL PURPOSE ENTITY.

B. THE APPROVAL OF A FINANCING ORDER DOES NOT OBLIGATE AN APPLICANT OR A QUALIFIED SPECIAL PURPOSE ENTITY TO ENGAGE IN THE APPROVED TRANSACTION, AND NEITHER AN APPLICANT NOR A QUALIFIED SPECIAL PURPOSE ENTITY SHALL BE SUBJECT TO ANY REGULATORY CONDITIONS, REGULATORY SANCTIONS OR OTHER PENALTIES FOR NOT ENGAGING IN AN APPROVED TRANSACTION. IF THE QUALIFIED SPECIAL PURPOSE ENTITY DETERMINES NOT TO ISSUE TRANSITION BONDS AUTHORIZED BY A FINANCING ORDER, THE APPLICANT SHALL REIMBURSE THE QUALIFIED SPECIAL PURPOSE ENTITY FOR ANY COSTS PAID BY THE QUALIFIED SPECIAL PURPOSE ENTITY THAT WOULD HAVE CONSTITUTED UPFRONT FINANCING COSTS HAD THE TRANSITION BONDS BEEN ISSUED, EXCEPT THAT DELAYING THE ISSUANCE OF TRANSITION BONDS PENDING FINAL RESOLUTION OF ANY APPEALS FROM THE FINANCING ORDER OR ANY LEGAL CHALLENGES TO THIS CHAPTER IS NOT DEEMED TO BE A DETERMINATION.

40-607. <u>Transition property; security interest; lien; priority</u>

A. THIS SECTION APPLIES TO ALL PURPORTED TRANSFERS OF, GRANTS OF LIENS ON, OR SECURITY INTERESTS IN TRANSITION PROPERTY. EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, THE CREATION, PERFECTION AND ENFORCEMENT OF A SECURITY INTEREST IN TRANSITION PROPERTY THAT IS PLEDGED

TO SECURE THE PAYMENT OF THE ONGOING FINANCING COSTS ARE GOVERNED BY THIS SECTION.

B. THE DESCRIPTION OF OR REFERENCE TO TRANSITION PROPERTY IN A TRANSFER OR SECURITY AGREEMENT AND A FINANCING STATEMENT IS SUFFICIENT IF AND ONLY IF THE DESCRIPTION OR REFERENCE REFERS TO THIS CHAPTER AND THE FINANCING ORDER DESCRIBING THE TRANSITION PROPERTY. A SECURITY INTEREST IN TRANSITION PROPERTY IS CREATED, VALID, BINDING AND ENFORCEABLE AT THE LATEST OF ANY OF THE FOLLOWING:

1. WHEN THE TRANSITION BONDS ARE ISSUED BY THE QUALIFIED SPECIAL PURPOSE ENTITY.

2. WHEN A SECURITY AGREEMENT IS EXECUTED AND DELIVERED BY THE QUALIFIED SPECIAL PURPOSE ENTITY.

3. WHEN VALUE IS RECEIVED BY THE QUALIFIED SPECIAL PURPOSE ENTITY FOR THE TRANSITION BONDS.

C. THE SECURITY INTEREST IN TRANSITION PROPERTY IS A STATUTORY LIEN IN FAVOR OF THE APPLICABLE FINANCING PARTY THAT ATTACHES AUTOMATICALLY WHEN THE TRANSITION BOND IS ISSUED AND VALUE FOR THE TRANSITION BONDS IS RECEIVED. THE SECURITY INTEREST ATTACHES WITHOUT ANY PHYSICAL DELIVERY OF COLLATERAL OR OTHER ACT, AND THE SECURITY INTEREST IS VALID, BINDING AND PERFECTED AGAINST ALL PARTIES HAVING CLAIMS OF ANY KIND AGAINST THE PERSON GRANTING THE SECURITY INTEREST, REGARDLESS OF WHETHER THE PARTIES HAVE NOTICE OF THE LIEN, ON THE FILING OF A FINANCING STATEMENT WITH THE SECRETARY OF STATE. THE SECRETARY OF STATE SHALL MAINTAIN THE FINANCING STATEMENT IN THE SAME MANNER AND IN THE SAME RECORDKEEPING SYSTEM MAINTAINED FOR FINANCING STATEMENTS THAT ARE FILED PURSUANT TO TITLE 47, CHAPTER 9, ARTICLE 5. FINANCING STATEMENTS THAT ARE FILED PURSUANT TO THIS SECTION ARE EFFECTIVE WITHOUT THE NEED TO FILE A CONTINUATION STATEMENT UNTIL A TERMINATION STATEMENT IS FILED.

D. A TRANSFER OF AN INTEREST, INCLUDING A GRANT OF A LIEN OR SECURITY INTEREST, IN TRANSITION PROPERTY IS PERFECTED AGAINST ALL THIRD PERSONS. A SECURITY INTEREST IN TRANSITION PROPERTY IS A CONTINUOUSLY PERFECTED SECURITY INTEREST AND HAS PRIORITY OVER ANY OTHER LIEN THAT MAY SUBSEQUENTLY ATTACH TO THE TRANSITION PROPERTY UNLESS THE HOLDER OF THE SECURITY INTEREST HAS AGREED IN WRITING OTHERWISE.

E. THE PRIORITY OF A SECURITY INTEREST IN TRANSITION PROPERTY IS NOT AFFECTED BY THE COMMINGLING OF FINANCING REVENUES WITH OTHER FUNDS. ANY PLEDGEE OR SECURED PARTY HAS A PERFECTED SECURITY INTEREST IN THE AMOUNT OF ALL FINANCING REVENUES THAT ARE DEPOSITED IN ANY ACCOUNT OF THE SERVICER IN WHICH FINANCING REVENUES HAVE BEEN COMMINGLED WITH OTHER FUNDS, AND ANY OTHER SECURITY INTEREST THAT MAY APPLY TO SUCH FINANCING REVENUES IS TERMINATED WHEN THOSE FUNDS ARE TRANSFERRED TO A SEGREGATED ACCOUNT FOR A FINANCING PARTY OR ASSIGNEE OF A FINANCING PARTY.

F. THE TRUE-UP MECHANISM DOES NOT AFFECT THE VALIDITY, PERFECTION OR PRIORITY OF A SECURITY INTEREST IN OR TRANSFER OF TRANSITION PROPERTY.

G. THE VALIDITY, PERFECTION OR PRIORITY OF A LIEN AND SECURITY INTEREST UNDER THIS CHAPTER IS NOT IMPAIRED BY ANY LATER MODIFICATION OF A FINANCING ORDER OR CHANGES IN A CUSTOMER'S FINANCING CHARGES.

40-608. Financing charges; true-up mechanism; civil action

A. FINANCING CHARGES ARE NONBYPASSABLE, ARE MANDATORY AND APPLY TO ALL CUSTOMERS. FINANCING REVENUES SHALL BE USED SOLELY FOR THE PAYMENT OF ONGOING FINANCING COSTS.

B. THE TRUE-UP MECHANISM SHALL CORRECT FOR ANY OVERCOLLECTION OR UNDERCOLLECTION OF FINANCING REVENUES AND PROVIDE FOR TIMELY AND COMPLETE PAYMENT OF ONGOING FINANCING COSTS. ADJUSTMENTS TO FINANCING CHARGES THAT ARE MADE IN ACCORDANCE WITH THE TRUE-UP MECHANISM SHALL BE APPLIED THROUGH AN EQUAL PERCENTAGE CHANGE TO ALL UNIT FINANCING CHARGES OR THROUGH AN ALTERNATIVE NONDISCRETIONARY MATHEMATICAL PROCESS OF ADJUSTING UNIT FINANCING CHARGES THAT IS INCLUDED IN THE TRUE-UP MECHANISM AND THAT IS DESCRIBED IN THE APPLICATION.

C. FOR COMBINED COOPERATIVE SECURITIZATION, THE TRUE-UP MECHANISM MAY ALSO ALLOCATE OR REALLOCATE FINANCING COSTS OR FINANCING CHARGES AND UNIT FINANCING CHARGES TO THE CUSTOMERS OF THE COOPERATIVE APPLICANTS.

D. ADJUSTMENTS TO THE FINANCING CHARGES AND UNIT FINANCING CHARGES RESULTING FROM THE APPLICATION OF THE TRUE-UP MECHANISM ARE NOT SUBJECT TO REGULATION BY THE COMMISSION AND ARE EFFECTIVE WITHOUT ANY ORDER OR ACTION OF THE COMMISSION OR ANY OTHER BODY, EXCEPT AS PROVIDED IN SUBSECTION E OF THIS SECTION.

E. AFTER TRANSITION BONDS HAVE BEEN ISSUED, THE DETERMINATION AND IMPOSITION OF FINANCING CHARGES, THE RECOVERY OF FINANCING REVENUES AND THE ADJUSTMENT OF THE FINANCING CHARGES THROUGH THE TRUE-UP MECHANISM ARE NOT SUBJECT TO REVIEW OR APPROVAL BY ANY GOVERNMENT ENTITY INCLUDING STATE AGENCIES, PUBLIC CORPORATIONS, MUNICIPALITIES OR OTHER INSTRUMENTALITIES OF THIS STATE, EXCEPT THAT THE SUPERIOR COURT HAS EXCLUSIVE JURISDICTION TO AND, ON COMMENCEMENT OF A SUIT AGAINST THE QUALIFIED SPECIAL PURPOSE ENTITY BY A CUSTOMER, MAY REVIEW AND DETERMINE WHETHER THERE HAS BEEN A MATHEMATICAL OR ADMINISTRATIVE ERROR IN ANY OF THE FOLLOWING:

1. THE CALCULATION OR APPLICATION OF THE TRUE-UP MECHANISM.

2. THE CALCULATION OF THE RESULTING FINANCING CHARGES AND UNIT FINANCING CHARGES.

F. THE JURISDICTION AND AUTHORITY OF THE SUPERIOR COURT IN AN ACTION UNDER THIS SECTION IS LIMITED TO DETERMINING THE FINANCING CHARGES AND UNIT FINANCING CHARGES THAT RESULT FROM THE CORRECT CALCULATION AND APPLICATION OF THE TRUE-UP MECHANISM. THE SUPERIOR COURT SHALL NOT ORDER OR REQUIRE ANY MODIFICATION TO THE TRUE-UP MECHANISM OR LIMIT, REDUCE, ALTER, IMPAIR, DELAY OR TERMINATE THE APPLICATION OF THE TRUE-UP MECHANISM OR THE COLLECTION AND REMITTANCE OF FINANCING REVENUES. A PARTY MAY NOT BRING ANY ACTION TO ENJOIN, RESTRAIN, STAY OR DELAY THE VALIDITY, CALCULATION AND IMPOSITION OF FINANCING CHARGES OR THE COLLECTION OF FINANCING REVENUES, INCLUDING THE ESTABLISHMENT AND APPLICATION OF THE

TRUE-UP MECHANISM AND THE COLLECTION AND REMITTANCE OF FINANCING REVENUES. AN ACTION UNDER THIS SECTION MUST BE FILED WITHIN TEN DAYS AFTER THE QUALIFIED SPECIAL PURPOSE ENTITY OR SERVICER FILES NOTICE WITH THE COMMISSION UNDER SUBSECTION K OF THIS SECTION. THE TIME FOR BRINGING THE ACTION MAY NOT BE TOLLED OR EXTENDED FOR ANY REASON. WITHIN SIXTY DAYS AFTER THE FILING OF AN ACTION UNDER THIS SECTION, THE SUPERIOR COURT SHALL HEAR AND RENDER A DECISION ON THE MATTER. THE DECISION IS APPEALABLE ONLY TO THE SUPREME COURT, AND THE NOTICE OF APPEAL SHALL BE FILED WITHIN FIVE DAYS AFTER THE DECISION OF THE SUPERIOR COURT IN THE ACTION. THE SUPREME COURT SHALL ISSUE A DECISION ON THE APPEAL PROMPTLY BUT NOT LATER THAN NINETY DAYS AFTER THE NOTICE OF APPEAL IS FILED WITH THE SUPREME COURT.

G. A COURT MAY NOT ENJOIN, RESTRAIN, STAY OR DELAY THE APPLICATION OF THE TRUE-UP MECHANISM OR THE COLLECTION AND REMITTANCE OF FINANCING REVENUES. IF THE FINAL JUDGMENT OF THE SUPERIOR COURT, AFTER ALL APPEALS ARE EXHAUSTED, REQUIRES A MODIFICATION OF ANY ADJUSTMENT MADE UNDER THE TRUE-UP MECHANISM, THE SERVICER SHALL MAKE THAT MODIFICATION AT THE TIME OF AND AS PART OF THE NEXT PERIODIC ADJUSTMENT OF THE FINANCING CHARGES FOLLOWING THE FINAL JUDGMENT AND EXHAUSTION OF ALL APPEALS THROUGH THE TRUE-UP MECHANISM.

H. ANY ADJUSTMENTS THAT ARE MADE PURSUANT TO THE TRUE-UP MECHANISM, ANY REVIEW OF THE CALCULATIONS OF THOSE ADJUSTMENTS OR ANY ACTION BROUGHT TO DETERMINE WHETHER THERE HAS BEEN A MATHEMATICAL OR ADMINISTRATIVE ERROR IN THE APPLICATION OF THE TRUE-UP MECHANISM SHALL NOT AFFECT THE IRREVOCABILITY OF THE TRANSITION PROPERTY, THE FINANCING CHARGES, THE FINANCING ORDER, THE NONBYPASSIBILITY OF THE FINANCING CHARGES AND UNIT FINANCING CHARGES OR THE NONIMPAIRMENT PLEDGES PRESCRIBED IN SECTION 40-610.

I. REGARDLESS OF WHETHER FINANCING CHARGES ARE ADMINISTERED, BILLED OR COLLECTED BY A SERVICER THAT IS A PUBLIC SERVICE CORPORATION, THE FINANCING CHARGES ARE NOT RATES OR CHARGES IMPOSED OR MADE BY A PUBLIC SERVICE CORPORATION FOR ELECTRIC SERVICE, AND THE RIGHT TO RECEIVE FINANCING CHARGES AND TO COLLECT RESULTING FINANCING REVENUES IS INDEPENDENT OF ANY RATE THAT IS ESTABLISHED, MADE OR CHARGED BY A PUBLIC SERVICE CORPORATION FOR ELECTRIC SERVICES AND THE REVENUES COLLECTED THEREUNDER. FINANCING REVENUES ARE THE PROPERTY OF THE QUALIFIED SPECIAL PURPOSE ENTITY AND ARE NOT THE PROPERTY OF THE SERVICER OR ANY OTHER PUBLIC SERVICE CORPORATION.

J. THE SERVICER, AS AGENT FOR THE QUALIFIED SPECIAL PURPOSE ENTITY, AT A MINIMUM SEMIANNUALLY AND QUARTERLY DURING THE TWO-YEAR PERIOD PRECEDING THE FINAL MATURITY DATE OF THE TRANSITION BONDS OR THE FINAL MATURITY DATE OF THE SERIES, CLASS OR TRANCHE OF THE BONDS WITH THE LATEST FINAL MATURITY DATE, IF MORE THAN ONE SERIES, CLASS OR TRANCHE HAS BEEN ISSUED, SHALL PERFORM CALCULATIONS FOR BOTH OF THE FOLLOWING:

1. ESTIMATING WHETHER THE EXISTING FINANCING CHARGES AND RESULTING FINANCING REVENUES ARE SUFFICIENT TO PROVIDE FOR TIMELY AND COMPLETE

PAYMENT OF ONGOING FINANCING COSTS OR WHETHER AN OVERCOLLECTION OR UNDERCOLLECTION OF FINANCING REVENUES IS PROJECTED.

2. UNDERTAKING THE PROCESSES USED IN THE TRUE-UP MECHANISM TO DETERMINE THE ADJUSTMENT TO THE FINANCING CHARGES PROJECTED TO CORRECT FOR ANY OVERCOLLECTION OR UNDERCOLLECTION OF FINANCING REVENUES.

K. THE QUALIFIED SPECIAL PURPOSE ENTITY OR THE SERVICER AS AGENT FOR THE QUALIFIED SPECIAL PURPOSE ENTITY SHALL FILE WITH THE COMMISSION AN INFORMATIONAL NOTICE THAT IDENTIFIES THE ADJUSTED UNIT FINANCING CHARGES THAT ARE TO BE INCLUDED ON A CUSTOMER'S BILLS UNDER THE TRANSITION BILLING SERVICES TARIFF. THIS NOTICE SHALL BE PROVIDED NOT LATER THAN FIFTEEN DAYS BEFORE THE DATE THE UNIT FINANCING CHARGES BECOME EFFECTIVE. THE NOTICE SHALL PROVIDE SUFFICIENT INFORMATION TO VERIFY THE MATHEMATICAL CALCULATION OF THE ADJUSTED FINANCING CHARGES AND UNIT FINANCING CHARGES THAT RESULT FROM APPLYING THE TRUE-UP MECHANISM.

L. IF A CUSTOMER DOES NOT PAY ANY UNIT FINANCING CHARGE, THE QUALIFIED SPECIAL PURPOSE ENTITY OR THE SERVICER AS AGENT OF AND IN THE NAME OF THE QUALIFIED SPECIAL PURPOSE ENTITY MAY BRING SUIT IN ANY COURT OF COMPETENT JURISDICTION AGAINST THE CUSTOMER TO COLLECT THE UNPAID UNIT FINANCING CHARGES. REASONABLE ATTORNEY FEES AND COSTS SHALL BE AWARDED TO THE PREVAILING PARTY. COMMENCEMENT OF THE SUIT DOES NOT AFFECT THE CALCULATION OF ANY ADJUSTMENT THAT IS AUTHORIZED BY THE TRUE-UP MECHANISM UNTIL AND UNLESS NET PROCEEDS ARE RECOVERED AND PAID TO THE QUALIFIED SPECIAL PURPOSE ENTITY AS FINANCING REVENUES.

40-609. Public service corporation as servicer; transition billing services tariffs; AAA rating

A. IF A SERVICER IS A PUBLIC SERVICE CORPORATION, THE PUBLIC SERVICE CORPORATION SHALL USE ITS RESOURCES AND SYSTEMS TO PERFORM THE DUTIES OF A SERVICER UNDER A TRANSITION BILLING SERVICES TARIFF. THE COMMISSION HAS CONTINUING JURISDICTION OVER THE TERMS OF A TRANSITION BILLING SERVICES TARIFF THAT IS FILED AND MAINTAINED BY A PUBLIC SERVICE CORPORATION.

B. FUNDS THAT ARE COLLECTED BY A SERVICER IN PAYMENT OF FINANCING CHARGES, WHETHER UNDER A TRANSITION BILLING SERVICES TARIFF OR OTHERWISE, ARE FINANCING REVENUES WHEN PAID BY A CUSTOMER, AND THE SERVICER HAS NO RIGHT, TITLE OR INTEREST IN THOSE REVENUES OTHER THAN AS AGENT FOR THE QUALIFIED SPECIAL PURPOSE ENTITY. IF A CUSTOMER PAYS ONLY A PORTION OF THE CHARGES STATED ON A BILL PROVIDED BY A SERVICER THAT INCLUDES FINANCING CHARGES, THE PARTIAL PAYMENT SHALL BE FIRST APPLIED TO THE PAYMENT OF FINANCING CHARGES.

C. IF A SERVICER FAILS TO MAKE ANY REQUIRED PAYMENT OF FINANCING REVENUES TO A QUALIFIED SPECIAL PURPOSE ENTITY OR FAILS TO FULFILL ITS SERVICING OBLIGATIONS UNDER AN APPLICABLE TRANSITION BILLING SERVICES TARIFF, THE QUALIFIED SPECIAL PURPOSE ENTITY OR THE HOLDERS OF THE TRANSITION BONDS MAY REQUEST THAT THE SUPERIOR COURT ORDER THE SEQUESTRATION AND PAYMENT OF THE FINANCING REVENUES FOR THE BENEFIT OF ANY

FINANCING PARTIES OR THEIR ASSIGNEES AND MAY REQUEST ANY OTHER APPLICABLE RELIEF. THE ORDER SHALL REMAIN IN FULL FORCE AND EFFECT NOTWITHSTANDING ANY BANKRUPTCY, REORGANIZATION OR OTHER INSOLVENCY OR RECEIVERSHIP PROCEEDINGS OF THE SERVICER OR THE QUALIFIED SPECIAL PURPOSE ENTITY.

D. IF THIS STATE, WHETHER THROUGH ORDER OF THE COMMISSION OR OTHERWISE, ALLOWS THE BILLING, COLLECTION AND REMITTANCE BY A THIRD PARTY OF SUMS THAT WOULD OTHERWISE BE BILLED, COLLECTED OR REMITTED BY A PUBLIC SERVICE CORPORATION THAT ACTS AS A SERVICER, THE AUTHORIZATION MUST BE CONSISTENT WITH THE RATING AGENCIES' REQUIREMENTS THAT ARE NECESSARY FOR THE TRANSITION BONDS TO RECEIVE AND MAINTAIN AN AAA OR EQUIVALENT RATING.

40-610. Transition bonds; irrevocability; public policy; noncompliance

A. ON OR AFTER THE ISSUANCE OF TRANSITION BONDS, THE TRANSITION PROPERTY, THE TRUE-UP MECHANISM AND THE FINANCING CHARGES ARE IRREVOCABLE, FINAL, NONDISCRETIONARY AND EFFECTIVE WITHOUT THE NEED FOR FURTHER ACTION BY THE COMMISSION OR ANY OTHER PERSON, AND SUCH FINANCING CHARGES SHALL NOT BE SUBJECT TO RESCISSION, ALTERATION, AMENDMENT, REDUCTION, IMPAIRMENT OR ADJUSTMENT BY FURTHER ACTION OF THE COMMISSION OR ANY OTHER PERSON EXCEPT PURSUANT TO THE TRUE-UP MECHANISM, INCLUDING PURSUANT TO SECTION 40-252.

B. THIS STATE, INCLUDING ALL AGENCIES, PUBLIC CORPORATIONS, MUNICIPALITIES OR OTHER INSTRUMENTALITIES OF THIS STATE, PLEDGES TO AND AGREES WITH THE FINANCING PARTIES, INCLUDING PRESENT AND FUTURE HOLDERS OF TRANSITION BONDS, THE APPLICANT, THE QUALIFIED SPECIAL PURPOSE ENTITY AND ANY OTHER PERSONS THAT ENTER INTO AN ANCILLARY AGREEMENT, THAT AFTER THE ISSUANCE OF TRANSITION BONDS AND UNTIL ALL FINANCING COSTS WHICH INCLUDE THE PRINCIPAL AND INTEREST OF TRANSITION BONDS AND ALL AMOUNTS TO BE PAID UNDER AN ANCILLARY AGREEMENT ARE FULLY MET AND DISCHARGED, THIS STATE OR ANY AGENCY, PUBLIC CORPORATION, MUNICIPALITY OR OTHER INSTRUMENTALITY OF THIS STATE MAY NOT TAKE OR ALLOW ANY ACTION TO BE TAKEN TO LIMIT, REDUCE, ALTER, IMPAIR, DELAY OR TERMINATE ANY OF THE FOLLOWING:

1. THE RIGHTS CONFERRED BY THIS CHAPTER, INCLUDING THE RIGHTS IN TRANSITION PROPERTY OR TRANSITION BONDS.

2. THE IMPOSITION OF FINANCING CHARGES AND UNIT FINANCING CHARGES BY THE QUALIFIED SPECIAL PURPOSE ENTITY.

3. THE OPERATION OF THE TRUE-UP MECHANISM TO ADJUST FINANCING CHARGES AND UNIT FINANCING CHARGES.

4. THE COLLECTION OF FINANCING REVENUES IN PAYMENT OF FINANCING CHARGES AND UNIT FINANCING CHARGES.

5. THE PAYMENT OF FINANCING COSTS.

C. IT IS THE INTENTION OF THIS STATE THAT THE PLEDGES MADE UNDER SUBSECTION B OF THIS SECTION CAN AND WILL BE RELIED ON BY THE APPLICANT, THE QUALIFIED SPECIAL PURPOSE ENTITY, OTHER PERSONS THAT ENTER INTO AN ANCILLARY AGREEMENT AND ANY FINANCING PARTY. THESE PLEDGES MAY BE

INCLUDED IN TRANSITION BONDS, ANCILLARY AGREEMENTS AND OTHER DOCUMENTATION RELATED TO ISSUING, RATING AND MARKETING THE TRANSITION BONDS.

D. ON AND AFTER THE ISSUANCE OF THE TRANSITION BONDS, THE FAILURE OF AN APPLICANT OR A QUALIFIED SPECIAL PURPOSE ENTITY TO COMPLY WITH THIS CHAPTER OR A FINANCING ORDER DOES NOT INVALIDATE, IMPAIR OR AFFECT THE FINANCING ORDER, THE TRANSITION PROPERTY, FINANCING CHARGES, TRANSITION BONDS OR FINANCING COSTS.

E. A FINANCING ORDER, TRANSITION PROPERTY AND FINANCING CHARGES ARE NOT AFFECTED BY EITHER OF THE FOLLOWING:

1. THE BANKRUPTCY, REORGANIZATION, SALE, DISSOLUTION OR INSOLVENCY OF THE APPLICANT OR THE QUALIFIED SPECIAL PURPOSE ENTITY OR THE SUCCESSORS OF THE APPLICANT OR THE QUALIFIED SPECIAL PURPOSE ENTITY.

2. AS TO EITHER THE APPLICANT, THE QUALIFIED SPECIAL PURPOSE ENTITY OR THE SUCCESSORS OF THE APPLICANT OR THE QUALIFIED SPECIAL PURPOSE ENTITY, THE COMMENCEMENT OF ANY PROCEEDING FOR BANKRUPTCY OR THE APPOINTMENT OF A RECEIVER.

40-611. Financing order; application for rehearing; judicial review

A. A PARTY TO THE PROCEEDING WHO IS DISSATISFIED WITH A COMMISSION DECISION AS TO AN APPLICATION FOR A FINANCING ORDER UNDER THIS CHAPTER OR THE ATTORNEY GENERAL ON BEHALF OF THIS STATE MAY APPLY TO THE COMMISSION FOR REHEARING IN ACCORDANCE WITH SECTION 40-253. THE APPLICATION FOR REHEARING SHALL BE FILED NOT LATER THAN TWENTY DAYS AFTER A COMMISSION DECISION ON AN APPLICATION FOR A FINANCING ORDER. IF THE COMMISSION DOES NOT GRANT THE APPLICATION FOR REHEARING WITHIN TWENTY DAYS AFTER THE APPLICATION IS FILED, THE APPLICATION IS DEEMED DENIED.

B. SECTIONS 40-254 AND 40-254.01 DO NOT APPLY TO ANY CLAIMS ARISING UNDER THIS CHAPTER.

C. WITHIN TEN DAYS AFTER A REHEARING IS DENIED OR GRANTED AND NOT AFTERWARDS, A PARTY THAT FILES A REHEARING APPLICATION PURSUANT TO SUBSECTION A OF THIS SECTION MAY FILE, IN THE SUPERIOR COURT IN THE COUNTY IN WHICH THE COMMISSION HAS ITS OFFICE, AN ACTION THAT SEEKS TO VACATE, SET ASIDE, AFFIRM IN PART, REVERSE IN PART OR REMAND THE COMMISSION'S DECISION REGARDING THE FINANCING APPLICATION. THE TIME FOR BRINGING ANY ACTION AUTHORIZED BY THIS SUBSECTION MAY NOT BE TOLLED OR EXTENDED FOR ANY REASON.

D. A PARTY THAT SEEKS TO VACATE, SET ASIDE OR OTHERWISE CHALLENGE A FINANCING ORDER OR OTHER COMMISSION DECISION UNDER THIS CHAPTER, IN WHOLE OR IN PART, BEARS THE BURDEN OF PROOF. IN AN ACTION THAT CHALLENGES A FINANCING ORDER OR OTHER DECISION THAT RESULTED FROM AN APPLICATION FOR AN ORDER, RELIEF MAY BE AWARDED ONLY IF THE SUPERIOR COURT DETERMINES, BASED ON CLEAR AND SATISFACTORY EVIDENCE, THAT EITHER OF THE FOLLOWING APPLIES:

1. THE FINANCING ORDER OR OTHER COMMISSION DECISION UNDER THIS CHAPTER IS UNLAWFUL.

2. THE FACTUAL FINDINGS MADE IN THE FINANCING ORDER OR OTHER COMMISSION DECISION UNDER THIS CHAPTER IS UNSUPPORTED BY THE APPLICATION OR EVIDENCE IN THE PROCEEDING BEFORE THE COMMISSION.

E. WITHIN SIXTY DAYS AFTER THE FILING OF THE ACTION, THE SUPERIOR COURT SHALL HEAR AND ISSUE A DECISION ON THE MATTER. THE SUPERIOR COURT MAY EXTEND THIS TIME FOR NOT MORE THAN THIRTY DAYS FOR GOOD CAUSE.

F. A PARTY MAY APPEAL A DECISION IN AN ACTION FILED UNDER THIS SECTION ONLY TO THE SUPREME COURT. THE PARTY SHALL FILE THE NOTICE OF APPEAL WITHIN FIVE DAYS AFTER THE DECISION OF THE SUPERIOR COURT IN THE ACTION. THE TIME FOR FILING THE NOTICE OF APPEAL MAY NOT BE TOLLED OR EXTENDED FOR ANY REASON. THE SUPREME COURT SHALL ISSUE A DECISION ON THE APPEAL PROMPTLY.

G. EXCEPT AS OTHERWISE PROVIDED BY THIS SECTION, A COURT IN THIS STATE DOES NOT HAVE JURISDICTION TO REVIEW, ENJOIN, RESTRAIN, SUSPEND, STAY OR DELAY ANY OF THE FOLLOWING:

1. A FINANCING ORDER.

2. THE CREATION OF TRANSITION PROPERTY.

3. THE ISSUANCE OF TRANSITION BONDS.

4. THE COMMISSION'S PERFORMANCE OF ITS DUTIES UNDER THIS CHAPTER.

H. THE ORDERS OR DECREES THAT ARE FIXED BY THE COMMISSION PURSUANT TO THIS CHAPTER SHALL REMAIN IN FORCE PENDING THE DECISION OF THE COURT.

40-612. Fees and taxes

FINANCING CHARGES ARE NOT SUBJECT TO EITHER:

1. ANY ASSESSMENT OF A FRANCHISE FEE THAT IS IMPOSED BY A MUNICIPALITY, COUNTY OR OTHER LOCAL GOVERNMENT UNIT PURSUANT TO A FRANCHISE AGREEMENT OR LAWFUL ORDINANCE.

2. TAXES THAT ARE APPLICABLE TO SERVICES PROVIDED BY, OR RATES OF, A PUBLIC SERVICE CORPORATION.

40-613. Transition bonds; public debt prohibition; applicant; cooperative

A. TRANSITION BONDS ARE NOT A PUBLIC DEBT, NOR A PLEDGE OF THE FAITH AND CREDIT OR TAXING POWER OF THIS STATE OR OF ANY COUNTY, MUNICIPALITY, OR OTHER LOCAL GOVERNMENT UNIT OF THIS STATE. THE APPROVAL OF A FINANCING ORDER DOES NOT OBLIGATE THIS STATE OR ANY COUNTY, MUNICIPALITY OR POLITICAL SUBDIVISION OF THIS STATE TO LEVY ANY TAX OR MAKE ANY APPROPRIATION FOR PAYMENT OF ANY FINANCING COST, INCLUDING THE PRINCIPAL AND INTEREST ON TRANSITION BONDS. HOLDERS OF TRANSITION BONDS OR OWNERS OF TRANSITION PROPERTY DO NOT HAVE A RIGHT TO HAVE TAXES LEVIED BY THIS STATE OR THE TAXING AUTHORITY OF ANY COUNTY, MUNICIPALITY OR POLITICAL SUBDIVISION OF THIS STATE FOR THE PAYMENT OF THE PRINCIPAL OF, INTEREST ON OR PREMIUM ON TRANSITION BONDS.

B. TRANSITION BONDS ARE NOT AN OBLIGATION OF AN APPLICANT OR A PLEDGE OF THE ASSETS OF AN APPLICANT. APPROVAL IS NOT REQUIRED UNDER SECTION 40-302, OR ANY OTHER PROVISION OF LAW, FOR THE APPROVAL OF A FINANCING ORDER, FOR THE ISSUANCE OF TRANSITION BONDS, OR FOR A SALE,

ASSIGNMENT OR TRANSFER OF TRANSITION PROPERTY OR AN INTEREST IN TRANSITION PROPERTY AUTHORIZED BY THIS CHAPTER. NOTWITHSTANDING ANY OTHER LAW, A CUSTOMER THAT IS A COOPERATIVE IS AUTHORIZED TO INCLUDE THE COSTS OF PAYING FINANCING CHARGES IN THE COSTS IT IS AUTHORIZED TO RECOVER FROM PERSONS WHO USE THE COOPERATIVE'S SERVICES.

40-614. Transition bonds; legal investments

TRANSITION BONDS ARE LEGAL INVESTMENTS FOR ALL GOVERNMENTAL UNITS, PERMANENT FUNDS OF THIS STATE, FINANCE AUTHORITIES, FINANCIAL INSTITUTIONS, INSURANCE COMPANIES, FIDUCIARIES AND OTHER PERSONS REQUIRING STATUTORY AUTHORITY REGARDING LEGAL INVESTMENTS.

40-615. Obligations of successor to applicant

ANY SUCCESSOR TO AN APPLICANT, WHETHER PURSUANT TO ANY BANKRUPTCY, REORGANIZATION OR OTHER INSOLVENCY PROCEEDING OR PURSUANT TO ANY MERGER OR ACQUISITION, SALE OR TRANSFER OR OTHER BUSINESS COMBINATION BY OPERATION OF LAW, AGREEMENT OF THE APPLICANT OR OTHERWISE, SHALL PERFORM AND SATISFY ALL OBLIGATIONS OF AND HAVE THE SAME RIGHTS AND OBLIGATIONS UNDER THIS CHAPTER OR ANY FINANCING ORDER AS THE APPLICANT IN THE SAME MANNER AND TO THE SAME EXTENT AS THE APPLICANT, INCLUDING ACTING AS A SERVICER AND COLLECTING AND PAYING TO THE PERSON ENTITLED TO RECEIVE THE FINANCING CHARGES AND FINANCING REVENUES.

40-616. Choice of law; conflicts with other laws

THE LAWS OF THIS STATE GOVERN THE VALIDITY, ENFORCEABILITY, ATTACHMENT, PERFECTION, PRIORITY AND EXERCISE OF REMEDIES WITH RESPECT TO THE CREATION OR TRANSFER OF, OR OF ANY INTEREST IN, TRANSITION PROPERTY, FINANCING CHARGES OR FINANCING REVENUES. IF THERE IS ANY CONFLICT BETWEEN THIS CHAPTER AND ANY OTHER LAW REGARDING THE CREATION, ATTACHMENT, TRANSFER, ASSIGNMENT OR PERFECTION OF, OR THE EFFECT OF PERFECTION ON OR THE PRIORITY OF ANY SECURITY INTEREST IN TRANSITION PROPERTY, FINANCING CHARGES OR FINANCING REVENUES, THIS CHAPTER GOVERNS TO THE EXTENT OF THE CONFLICT.

40-617. Effect of invalidity on actions

IF ALL OR ANY PART OF THIS CHAPTER IS INVALIDATED, SUPERSEDED, REPLACED, REPEALED OR EXPIRES FOR ANY REASON, THAT OCCURRENCE DOES NOT AFFECT THE VALIDITY OF ANY PRIOR ACTION ALLOWED UNDER THIS CHAPTER, WHETHER TAKEN BY THE COMMISSION, A PUBLIC SERVICE CORPORATION, A QUALIFIED SPECIAL PURPOSE ENTITY OR ANY OTHER PERSON, AND DOES NOT AFFECT TRANSITION BONDS THAT WERE ALREADY ISSUED OR TRANSITION PROPERTY THAT WAS ALREADY CREATED.

<<40-618. Consumer protection advocate; duties

[THE COMMISSION SHALL APPOINT THE DIRECTOR OF THE RESIDENTIAL UTILITY CONSUMER OFFICE TO SERVE AS THE CONSUMER PROTECTION ADVOCATE WHO SHALL:

1. ADVISE THE COMMISSION IN THE FOLLOWING AREAS:

(a) SECURITIZATION TRANSACTIONS, INCLUDING MARKETING AND PRICING A TRANSACTION.

(b) BOND NEGOTIATIONS.

(c) RATE INCREASES.

2. REPRESENT THE PUBLIC INTEREST OF ELECTRIC CUSTOMERS OF A PUBLIC POWER ENTITY OR A PUBLIC SERVICE CORPORATION WHO USE ELECTRIC SERVICE IN THIS STATE.]>>

<<40-619. Prudency review; securitization; rules

[A. THE COMMISSION SHALL ESTABLISH A PRUDENCY REVIEW PROCESS THAT REVIEWS THE ASSETS THAT ARE TO BE SECURITIZED BY A PUBLIC POWER ENTITY, A PUBLIC SERVICE CORPORATION OR A MEMBER-OWNED COOPERATIVE.

B. THE PURPOSE OF THE PRUDENCY REVIEW IS TO ENSURE THAT THE NEED FOR SECURITIZATION IS NOT A RESULT OF IMPRUDENT ACTION BY A PUBLIC POWER ENTITY, A PUBLIC SERVICE CORPORATION OR A MEMBER-OWNED COOPERATIVE.

C. THE COMMISSION MAY ADOPT RULES TO IMPLEMENT THIS SECTION.]>>

Sec. 3. Section 47-9109, Arizona Revised Statutes, is amended to read:

47-9109. Scope

A. Except as otherwise provided in subsections C and D of this section, this chapter applies to:

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

2. An agricultural lien;

3. A sale of accounts, chattel paper, payment intangibles or promissory notes;

4. A consignment;

5. A security interest arising under section 47-2401 or 47-2505, ~~or~~ section 47-2711, subsection C or section 47-2A508, subsection E, as provided in section 47-9110; and

6. A security interest arising under section 47-4210 or 47-5118.

B. The application of this article to a security interest in a secured obligation is not affected by the fact that the obligation is itself secured by a transaction or interest to which this chapter does not apply.

C. This chapter does not apply to the extent that:

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

2. A statute of a foreign country or a governmental unit of a foreign country, other than a statute generally applicable to security interests, expressly governs creation, perfection, priority or enforcement of a security interest created by that country or governmental unit; or

3. The rights of a transferee beneficiary or nominated person under a letter of credit are independent and superior under section 47-5114.

D. This chapter does not apply to:

1. A landlord's lien, other than an agricultural lien;

2. A lien, other than an agricultural lien, given by statute or other rule of law for services or materials, but section 47-9333 applies with respect to priority of the lien;

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

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

5. An assignment of accounts, chattel paper, payment intangibles or promissory notes that is for the purpose of collection only;

6. An assignment of a right to payment under a contract to an assignee that is also obligated to perform under the contract;

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

8. A transfer of an interest in or an assignment of a claim under a policy of insurance, other than an assignment by or to a health care provider of a health-care-insurance receivable and any subsequent assignment of the right to payment, but sections 47-9315 and 47-9322 apply with respect to proceeds and priorities in proceeds;

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

10. A right of recoupment or setoff, but:

(a) Section 47-9340 applies with respect to the effectiveness of rights of recoupment or setoff against deposit accounts; and

(b) Section 47-9404 applies with respect to defenses or claims of an account debtor;

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

(a) Liens on real property in sections 47-9203 and 47-9308;

(b) Fixtures in section 47-9334;

(c) Fixture filings in sections 47-9501, 47-9502, 47-9512, 47-9516 and 47-9519; and

(d) Security agreements covering personal and real property in section 47-9604;

12. An assignment of a claim arising in tort, other than a commercial tort claim, but sections 47-9315 and 47-9322 apply with respect to proceeds and priorities in proceeds;

13. An assignment of a deposit account in a consumer transaction, but sections 47-9315 and 47-9322 apply with respect to proceeds and priorities in proceeds;

14. A transfer, pledge, assignment, grant or similar action by this state, another state or a governmental unit of this state or another state;

15. A claim or right to receive compensation for injuries or sickness as described in 26 United States Code section 104a(1) or (2); or

16. A claim or right to receive benefits under a special needs trust as described in 42 United States Code section 1396p(d)(4); OR ~~.~~

17. A SECURITY INTEREST THAT IS SUBJECT TO SECTION 30-906 OR 40-607.

Enroll and engross to conform

Amend title to conform

PRIYA SUNDARESHAN

2679SUNDARESHAN1025.docx
04/10/2025
10:25 AM
S: SB/ci