

SENATE BILL 156

55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021

INTRODUCED BY

William P. Soules

This document may incorporate amendments proposed by a committee, but not yet adopted, as well as amendments that have been adopted during the current legislative session. The document is a tool to show amendments in context and cannot be used for the purpose of adding amendments to legislation.

AN ACT

RELATING TO PUBLIC UTILITIES; ENACTING THE RATEPAYER RELIEF ACT; PROVIDING FOR THE USE OF SECURITIZATION FINANCING UPON THE ABANDONMENT OF GENERATION FACILITIES OPERATED OR LEASED BY AN ELECTRICAL UTILITY; AUTHORIZING A CHARGE TO PAY INTEREST AND PRINCIPAL ON SECURITIZATION BONDS; PROVIDING A PLEDGE THAT THE STATE WILL NOT IMPAIR CHARGES OR THE RIGHTS OF BONDHOLDERS; PROVIDING DUTIES AND POWERS OF THE PUBLIC REGULATION COMMISSION REGARDING SECURITIZATION FINANCING ~~SCONC~~ ~~→; REPEALING THE ENERGY~~

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~~TRANSITION ACT~~ ← SCONC .

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. [NEW MATERIAL] SHORT TITLE.--This act may be cited as the "Ratepayer Relief Act".

SECTION 2. [NEW MATERIAL] DEFINITIONS.--As used in the Ratepayer Relief Act:

A. "ancillary agreement" means a bond, insurance policy, letter of credit, reserve account, surety bond, interest rate lock or swap arrangement, hedging arrangement, liquidity or credit support arrangement or other financial arrangement entered into in connection with securitization bonds that is designed to promote the credit quality and marketability of the securitization bonds or to mitigate the risk of an increase in interest rates;

B. "assignee" means a person who receives an interest in property when the property is sold, assigned, transferred or conveyed, other than as security, and any successor to the person;

C. "bondholder" means the holder or owner of securitization bonds;

D. "charge" means a non-bypassable charge, separate and apart from a qualifying utility's base rates, that is paid by all customers of the qualifying utility for the recovery of securitization costs;

E. "commission" means the public regulation commission;

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F. "customer" means a person that takes electric distribution or electric transmission service from a qualifying utility, or its successor, for consumption of electricity in the state;

G. "financing costs" means the reasonable and prudent costs incurred to issue and administer securitization bonds as approved by the commission in a financing order;

H. "financing order" means an order of the commission that authorizes the issuance of securitization bonds, authorizes the charge and creates property;

I. "financing party" means a holder of securitization bonds and a trustee, a collateral agent, a party under an ancillary agreement or any other person acting for the benefit of holders of securitization bonds;

J. "non-bypassable" means that the payment of charges by any existing or future customer located within a qualifying utility's certificated service territory may not be avoided;

K. "property" means the rights and interests of an assignee under a financing order:

(1) for full payment and recovery of all securitization costs identified in the financing order, including all revenue or other proceeds arising from those rights and interests; and

(2) to impose, bill, collect and receive

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revenue;

L. "qualifying generating facility" means

SCONC→~~an~~←SCONC SCONC→a non-coal←SCONC electric generating facility composed of one or more generating units that:

(1) has been granted a certificate of public convenience and for which abandonment authority is granted by the commission after December 31, 2019; and

(2) is owned or leased, in whole or in part, by a qualifying utility;

M. "qualifying utility" means a public utility, as defined in Section 62-3-3 NMSA 1978, that owns, operates, leases or controls any plant, property or facility for the generation, transmission or distribution of electricity to or for the public in the state;

N. "securitization bonds" means corporate securities, including senior secured bonds, debentures, notes, certificates of participation, certificates of beneficial interest, certificates of ownership or other evidences of indebtedness or ownership, that are issued by a qualifying utility or an assignee under a financing order, the proceeds of which are used to recover, finance or refinance commission-approved securitization costs and financing costs;

O. "securitization costs":

(1) include:

(a) the undepreciated investment in a

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qualifying generating facility that is being abandoned, as of the date of abandonment, deemed by the commission to be the financial obligation of the utility's ratepayers;

(b) other costs associated with the abandonment of a qualifying generating facility that are deemed reasonable and prudent by the commission;

(c) reasonable and prudent preliminary and continuing costs associated with and required for the issuance of a financing order and subsequent financing; and

(d) financing costs; and

(2) do not include any monetary penalty, fine or forfeiture assessed against a qualifying utility by a government agency or court under a federal or state environmental statute, rule or regulation;

P. "securitization revenue" means all revenue collected by a qualifying utility through a charge;

Q. "stranded asset" means the portion of the undepreciated investment in a qualifying generating facility that is being abandoned, deemed by the commission to be the financial obligation of the utility's ratepayers who will not be provided electricity for that obligation; and

R. "successor" means a legal entity that succeeds by operation of law to the rights and obligations of another legal entity under a bankruptcy, reorganization, restructuring, other insolvency proceeding, merger, acquisition, consolidation

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or sale or transfer of assets.

SECTION 3. [NEW MATERIAL] ABANDONMENT.--

A. A qualifying utility may apply to the commission to abandon a generating facility in accordance with the provisions of Section 62-9-5 NMSA 1978. In its application, the utility may also apply for a financing order under the Ratepayer Relief Act to recover securitization costs.

B. Regardless of whether the utility applies for a financing order upon application for abandonment, the commission, on its own motion, may require the use of securitization bonds and thereby issue a financing order.

C. The commission may issue a financing order if it determines that the:

- (1) abandonment should be granted;
- (2) abandonment creates a stranded asset; and
- (3) use of securitization bonds results in

lower costs for ratepayers while allowing the qualifying utility to recover approved securitization costs.

D. If an application for approval to abandon a qualifying generating facility is pending before the commission on the effective date of the Ratepayer Relief Act, the qualifying utility may file a separate application for a financing order and the commission shall consolidate the application for a financing order with the pending application for abandonment. The commission may also, on its own motion,

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consolidate the requirement for a financing order with the pending application for abandonment. If consolidation as described in this subsection occurs, the time periods prescribed by the Ratepayer Relief Act shall apply to the consolidated case as of the date of the consolidation.

SECTION 4. [NEW MATERIAL] FINANCING ORDER--APPLICATION--CONTENTS.--

A. A qualifying utility may apply to the commission for a financing order. In its application, the qualifying utility shall seek commission approval to issue securitization bonds in one or more series; to impose, charge and collect charges; and to create property related to the abandonment of a qualifying generating facility that was previously approved by the commission. The commission shall take final action to approve, deny or modify an application for a financing order within one hundred twenty days from the date the application was submitted or within one hundred twenty days from the date of final approval of the related abandonment application, whichever is later.

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

(1) an estimated schedule for the abandonment of any facility for which the costs are to be financed by the securitization bond financing;

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(2) an estimate of the net present value of the qualifying utility's customer savings expected to result if the financing order is issued as determined by a net present value comparison between the costs to customers that are expected to result from the financing with securitization bonds and the costs that would result from the application of traditional utility rate financing mechanisms for the same purposes;

(3) one or more alternative financing scenarios in addition to the preferred scenario contained in the application;

(4) a description of the non-bypassable charges required to be paid by customers within the qualifying utility's certificated service territory for recovery of securitization costs; and

(5) a proposed methodology for allocating the revenue requirement for the charges among customer classes.

SECTION 5. [NEW MATERIAL] FINANCING ORDER--ISSUANCE--
TERMS OF BONDS--NOTICE AND HEARING--STANDARD OF REVIEW--
MANDATORY FINDINGS--RATE REDUCTION--IRREVOCABILITY--
REFINANCING--NONIMPAIRMENT.--

A. After a hearing on an application for a financing order and upon notice, if the hearing and notice are required by the commission, the commission may issue a financing order if the commission finds that:

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(1) the securitization costs described in the application are reasonable;

(2) the proposed issuance of securitization bonds and the imposition and collection of charges:

(a) are just and reasonable;

(b) are consistent with the public interest; and

(c) constitute a reasonable and prudent mechanism for the financing of the securitization costs described in the application; and

(3) the proposed structuring, marketing and pricing of the securitization bonds are reasonably expected to lower net present value costs to customers and mitigate rate impacts to customers relative to traditional utility rate financing mechanisms.

B. The financing order shall:

(1) determine the maximum amount of securitization costs that may be financed from proceeds of securitization bonds authorized by the financing order;

(2) describe the proposed customer billing mechanism for charges and include a finding that the mechanism is just and reasonable;

(3) describe the financing costs that may be recovered through charges and the period over which the costs may be recovered, which period shall end no earlier than the

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date of final legal maturity of the securitization bonds;

(4) describe the property that is created and that may be used to pay, and secure the payment of, the securitization bonds and financing costs authorized in the financing order;

(5) authorize the qualifying utility to finance securitization costs through the issuance of one or more series of securitization bonds; provided that a qualifying utility shall not be required to secure a separate financing order for each issuance of securitization bonds or for each scheduled phase of the previously approved abandonment of qualifying generating facility approved in the financing order;

(6) include a mechanism for making expeditious periodic adjustments in the charges that customers are required to pay under the financing order and for making any adjustments that are necessary to correct for any over- or under-collection of the charges in past periods, or to otherwise guarantee the timely payment of securitization bonds and financing costs and other required amounts and charges payable in connection with securitization bonds;

(7) specify the degree of flexibility afforded to the qualifying utility in establishing the terms and conditions of the securitization bonds, including repayment schedules, expected interest rates and other financing costs; provided that the scheduled final maturity of the

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securitization bonds shall be no longer than thirty years from the first issue date of the securitization bonds;

(8) specify the timing of actions required by the order so that:

(a) the securitization bonds are issued as soon as feasible following the issuance of the financing order, independent of the schedule of closing and decommissioning of any qualifying generating facility; and

(b) the qualifying utility files to adjust its rates as required in Subsection D of this section simultaneously with the inception of the charges and independently of the schedule of closing and decommissioning of any qualifying generating facility;

(9) specify a future ratemaking process to reconcile any difference between the projected costs included in the amount financed by securitization bonds and the final actual securitization costs approved by the financing order. The reconciliation may affect the qualifying utility's base rates or any rider but shall not affect the amount of the securitization bonds or the associated charges to be paid by customers;

(10) ensure that the structuring and pricing of the securitization bonds result in the lowest securitization bond charges consistent with market conditions and the terms of the financing order;

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(11) specify the purposes related to providing utility service to customers for which the proceeds from the issuance of securitization bonds may be used, including any specific directions for the use of the proceeds; and

(12) include any additional findings or conclusions deemed appropriate by the commission.

C. A financing order shall allow, and may require, the creation of a qualifying utility's property to be conditioned upon, and simultaneous with, the sale or other transfer of the property to an assignee and the pledge of the property to secure securitization bonds.

D. A financing order shall require the qualifying utility, simultaneously with the imposition of charges, to reduce its rates through a reduction in base rates or by a negative rider on customer bills in an amount equal to the revenue requirement associated with the qualifying utility's assets being financed by securitization bonds.

E. The commission shall ensure that securitization bonds receive the broadest possible distribution, and that the securitization bonds are offered to New Mexico residents and investment funds for the benefit of New Mexico residents.

F. A financing order shall remain in effect until the securitization bonds issued, as authorized by the financing order, have been paid in full and all financing costs relating to the securitization bonds have been paid in full. A

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financing order shall also remain in effect and unabated notwithstanding the bankruptcy, reorganization or insolvency of the qualifying utility to which the financing order applies, or of any affiliate, successor or assignee of the qualifying utility. A financing order shall be irrevocable, and the commission shall not reduce, impair, postpone or terminate charges approved in a financing order or impair property or the collection or recovery of securitization revenue.

G. Notwithstanding the provisions of Subsection A of this section, upon its own motion or at the request of a qualifying utility or any other person, the commission may commence a proceeding and issue a subsequent financing order that provides for refinancing, retiring or refunding securitization bonds issued under the original financing order if:

(1) the commission determines that the subsequent financing order meets the same criteria as specified in the original financing order; and

(2) the modification provided for in the subsequent financing order does not impair in any way the covenants and terms of the securitization bonds to be refinanced, retired or refunded.

SECTION 6. [NEW MATERIAL] POWERS AND DUTIES OF THE COMMISSION.--

A. Except as otherwise provided in Subsection B of .218520.1AIC February 22, 2021 (10:41am)

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this section, if the commission issues a financing order to a qualifying utility, the commission shall not, in exercising its powers and carrying out its duties:

(1) consider the securitization bonds issued under the financing order to be debt of the qualifying utility;

(2) consider the charges paid under the financing order to be revenue of the qualifying utility;

(3) consider the securitization costs or financing costs specified in the financing order to be the regulated costs or to give rise to assets of the qualifying utility; or

(4) determine any prudent action taken by a qualifying utility that is consistent with the financing order to be unjust or unreasonable.

B. Nothing in Subsection A of this section shall:

(1) affect the authority of the commission to apply or modify any billing mechanism designed to recover charges;

(2) prevent or preclude the commission from investigating the compliance of a qualifying utility with the terms and conditions of a financing order and requiring compliance with the financing order; or

(3) prevent or preclude the commission from imposing regulatory sanctions against a qualifying utility for failure to comply with the terms and conditions of a financing

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order or the requirements of the Ratepayer Relief Act.

C. In addition to any other power and duties of the commission:

(1) the commission shall perform comprehensive due diligence in its evaluation of an application for a financing order and shall oversee the process used to structure, market and price securitization bonds;

(2) the commission may attach such conditions to the approval of a financing order as the commission deems appropriate to optimize the financial benefits or minimize the financial risks of the transaction to customers;

(3) the commission may specify details of the process used to structure, market and price securitization bonds, including the selection of the underwriter or underwriters;

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

(5) the commission shall ensure that the structuring, marketing and pricing of securitization bonds optimizes net present value customer savings, consistent with market conditions and the terms of the financing order.

D. Within one hundred twenty days after the issuance of securitization bonds, the applicant qualifying utility shall file with the commission information regarding

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the actual up-front and ongoing financing costs of the securitization bonds. The commission shall review the prudence of the qualifying utility's action to determine whether the financing costs resulted in the lowest overall costs that were reasonably consistent with both market conditions at the time of the sale of the securitization bonds and the terms of the financing order. If the commission determines that the utility's actions were not prudent, were not designed to result in the lowest overall costs that were reasonably consistent with both market conditions at the time of the sale of the securitization bonds and the terms of the financing order or were inconsistent with the financing order, the commission may apply any remedies that the commission determines are necessary to achieve the intent of this section and the intent of the terms of the financing order, except that the commission shall not apply any remedy that has the effect, directly or indirectly, of impairing the security for the securitization bonds.

E. In performing its responsibilities under the Ratepayer Relief Act, the commission may engage outside financial advisors and other consultants and counsel with substantial experience representing regulatory bodies in securitized investor-owned electric utility ratepayer-backed bond financing similar to securitization bonds. The expenses associated with such engagement shall be included as financing

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costs and included in charges, shall not be an obligation of the state and shall be assigned solely to the financing transaction.

F. If a qualifying utility's application for a financing order is denied or withdrawn, or if for any reason securitization bonds are not issued, the commission's costs of retaining expert consultants and counsel, as authorized in Subsection E of this section, shall be paid by the qualifying utility and shall be considered by the commission as a prudent deferred expense for recovery in the qualifying utility's next general rate case.

SECTION 7. [NEW MATERIAL] AGGRIEVED PARTIES--REHEARING-- JUDICIAL REVIEW.--

A. A financing order is a final order of the commission. A party aggrieved by the issuance of a financing order may apply to the commission for a rehearing in accordance with Section 62-10-16 NMSA 1978; provided that the party shall apply no later than ten calendar days after issuance of the financing order. An application for rehearing shall be deemed denied if not acted upon by the commission within ten calendar days after the filing of the application.

B. Following a rehearing as provided for in Subsection A of this section, an aggrieved party may file a notice of appeal with the supreme court in accordance with Section 62-11-1 NMSA 1978.

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SECTION 8. [NEW MATERIAL] PROPERTY.--

A. Property that is described in a financing order shall constitute an existing present property right or interest even though the imposition and collection of charges depend on whether the qualifying utility to which the financing order is issued, or its successor, is performing its servicing functions relating to the collection of the charges and on future electricity consumption. The property right or interest exists regardless of whether the revenues or proceeds arising from the property have been billed, have accrued or have been collected and notwithstanding the fact that the value or amount of the property right or interest is dependent on the future provision of service to customers by the qualifying utility or its successor or assignee.

B. Property described in a financing order shall exist until all securitization bonds issued under the financing order are paid in full and all financing costs and other authorized costs of the securitization bonds have been recovered in full.

C. All or any portion of property described in a financing order issued to a qualifying utility may be transferred, sold, conveyed or assigned to a successor or assignee that is wholly owned, directly or indirectly, by the qualifying utility and that is created for the limited purpose of acquiring, owning or administering property or issuing

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securitization bonds as authorized by the financing order. All or any portion of property may be pledged to secure securitization bonds issued under a financing order, amounts payable to financing parties and to counterparties under any ancillary agreements and other financing costs. Each transfer, sale, conveyance, assignment or pledge by a qualifying utility, or an affiliate of a qualifying utility, is a transaction in the ordinary course of business.

D. If a qualifying utility defaults on any required remittance of charges arising from property described in a financing order, a court, upon application by an interested party and without limiting any other remedies available to the applying party, shall order the sequestration and payment of the revenues arising from the property to the financing parties. Any such financing order remains in full force and effect notwithstanding any reorganization, bankruptcy or other insolvency proceedings with respect to the qualifying utility or its successors or assignees.

E. The interest of a transferee, purchaser, acquirer, assignee or pledgee in property specified in a financing order issued to a qualifying utility, and in the revenue and collections arising from that property, is not subject to setoff, counterclaim, surcharge or defense by the qualifying utility or any other person or in connection with the reorganization, bankruptcy or other insolvency of the

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qualifying utility or any other entity.

F. A successor to a qualifying utility, whether pursuant to a reorganization, bankruptcy or other insolvency proceeding or to a merger or acquisition, sale, other business combination or transfer by operation of law, as a result of electric utility restructuring or otherwise, shall perform and satisfy all obligations of, and have the same duties and rights under a financing order as, the qualifying utility to which the financing order applies, and shall perform the duties and exercise the rights in the same manner and to the same extent as the qualifying utility, including collecting and paying to any person entitled to receive them the revenues, collections, payments or proceeds of property described in the financing order.

SECTION 9. [NEW MATERIAL] SECURITIZATION BONDS--LEGAL INVESTMENTS.--

A. Banks, trust companies, savings and loan associations, insurance companies, executors, administrators, guardians, trustees and other fiduciaries may legally invest any money within their control in securitization bonds. Political subdivisions may invest public funds in securitization bonds.

B. Securitization bonds issued under a financing order are not debt of, or a pledge of, the faith and credit or taxing power of the state, any agency of the state or any

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political subdivision of the state. Holders of securitization bonds have no right to have taxes levied by the state or by any political subdivision of the state for the payment of the principal or interest on securitization bonds. The issuance of securitization bonds shall not directly, indirectly or contingently obligate the state or a political subdivision of the state to levy any tax or make any appropriation for payment of principal or interest on the securitization bonds.

SECTION 10. [NEW MATERIAL] STATE PLEDGE NOT TO IMPAIR.--

A. The state pledges that it shall not take or allow any action that impairs the value of property or, except as allowed pursuant to the Ratepayer Relief Act, reduce, alter or impair charges that are imposed, collected and remitted for the benefit of the bondholders until the entire principal of and interest on securitization bonds is paid in full.

B. A person who issues securitization bonds is permitted to include the pledge specified in Subsection A of this section in the securitization bonds, ancillary agreements and documentation related to the issuance and marketing of the securitization bonds.

SECTION 11. [NEW MATERIAL] FINANCING PARTIES NOT PUBLIC UTILITIES.--An assignee or financing party that is not regulated by the commission shall not become subject to commission regulation solely as a result of engaging in any transaction authorized by or described in the Ratepayer Relief

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SECTION 12. [NEW MATERIAL] CONFLICTS.--

A. If any provision of the Ratepayer Relief Act conflicts with any other law regarding the attachment, assignment, perfection, effect of perfection or priority of any security interest in or transfer of property, that act shall govern to the extent of the conflict.

B. Nothing in the Ratepayer Relief Act precludes a qualifying utility, to which the commission has initially issued a financing order, from applying to the commission for:

(1) a subsequent financing order amending an existing financing order; or

(2) an order approving the issuance of securitization bonds to refund all or a portion of an outstanding series of securitization bonds.

SECTION 13. [NEW MATERIAL] SECURITY INTERESTS--

APPLICABILITY OF OTHER ACTS--CREATION OF SECURITY INTEREST--ATTACHMENT ON FILING--PRIORITY OVER OTHER LIENS.--

A. Except as otherwise provided in this section, the creation, perfection and enforcement of a security interest in property to secure the repayment of the principal of and interest on securitization bonds, amounts payable pursuant to an ancillary agreement and other financing costs are governed by this section. This section shall be deemed to supersede the provisions of the Uniform Commercial Code and the Public

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Utility Act to the extent those provisions are inconsistent with this section.

B. The description or reference to property in a transfer or security agreement and a financing statement is sufficient only if the description or reference refers to the Ratepayer Relief Act and the financing order creating the property. This section applies to all purported transfers of, grants of liens on or security interests in property.

C. A security interest in property is created, valid and binding at the latest of when:

- (1) the financing order is issued;
- (2) a security agreement is executed and delivered; or
- (3) value is received for the securitization bonds.

D. The security interest attaches without any physical delivery of collateral or other act, and the lien of the security interest shall be 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 filed pursuant to Chapter 55, Article 9

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NMSA 1978; provided that financing statements filed pursuant to this section shall be effective until a termination statement is filed.

E. A security interest in property is a continuously perfected security interest and has priority over any other lien that may subsequently attach to the property unless the holder of the security interest has agreed in writing otherwise.

F. The priority of a security interest in property is not affected by the commingling of securitization revenues with other money. Any pledgee or secured party shall have a perfected security interest in the amount of all securitization revenues that are deposited in any account of the qualifying utility and any other security interest that may apply to those funds shall be terminated when they are transferred to a segregated account for the assignee or a financing party.

G. No order of the commission and no application of the adjustment mechanism will affect the validity, perfection or priority of a security interest in or transfer of property.

SECTION 14. [NEW MATERIAL] SALE OF PROPERTY--PERFECTING INTERESTS--ABSOLUTE TRANSFER AND TRUE SALE REQUIREMENTS.--

A. A sale, assignment or transfer of property is an absolute transfer and true sale of, and not a pledge of or secured transaction relating to, the seller's right, title and interest in, to and under the property if the documents

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governing the transaction expressly state that the transaction is a sale or other absolute transfer. A transfer of an interest in property may be created only when all of the following have occurred:

- (1) the financing order creating and describing the property has become effective;
- (2) the documents evidencing the transfer of the property have been executed and delivered to the assignee; and
- (3) value has been received.

B. Upon the filing of a financing statement with the secretary of state, a transfer of an interest in property is perfected against all third persons, including any judicial lien or other lien creditors or any claims of the seller or creditors of the seller, other than creditors holding a prior security interest, ownership interest or assignment in the property previously perfected.

C. The characterization of a sale, assignment or transfer as an absolute transfer and true sale and the corresponding characterization of the property interest of the assignee shall not be affected or impaired by the existence or occurrence of any of the following:

- (1) commingling of securitization revenue with other money;
- (2) the retention by the seller of a partial

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or residual interest, including an equity interest, in the property, whether direct or indirect, or whether subordinate or otherwise; or the right to recover costs associated with taxes, franchise fees or license fees imposed on the collection of securitization revenue;

(3) any recourse that the purchaser may have against the seller;

(4) any indemnification rights, obligations or repurchase rights made or provided by the seller;

(5) an obligation of the seller to collect securitization revenues on behalf of an assignee;

(6) the treatment of the sale, assignment or transfer for tax, financial reporting or other purposes;

(7) any subsequent financing order amending a financing order; or

(8) any application of an adjustment mechanism as authorized by the financing order.

SECTION 15. [NEW MATERIAL] EXPENDITURE OF SECURITIZATION BOND PROCEEDS.--A qualifying utility shall use the proceeds from the issuance of securitization bonds only for purposes related to providing utility service to customers.

SECTION 16. [NEW MATERIAL] COMMISSION AUTHORIZED TO PROMULGATE RULES.--The commission shall have the authority to promulgate rules to implement the provisions of the Ratepayer Relief Act. Any rule or portion of a rule promulgated under

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the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of the Ratepayer Relief Act.

SECTION 17. [NEW MATERIAL] CHOICE OF LAW.--The laws of New Mexico as set forth in the Ratepayer Relief Act shall govern the validity, enforceability, attachment, perfection, priority and exercise of remedies with respect to a security interest in property, a charge or a financing order.

SECTION 18. [NEW MATERIAL] VALIDITY ON ACTIONS IF ACT HELD INVALID.--

A. Effective on the date that securitization bonds are first issued under the Ratepayer Relief Act, if any provision of that act is invalidated, superseded, replaced, repealed or expires for any reason, that occurrence shall not affect the validity of any prior action allowed pursuant to the Ratepayer Relief Act that is taken by the commission, a qualifying utility, an assignee or any other person, and any such action shall remain in full force and effect with respect to all securitization bonds issued or authorized in a financing order.

B. Except as otherwise expressly provided in the Ratepayer Relief Act, the provisions of that act are severable. If any provision of the Ratepayer Relief Act or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the

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invalid provision or application.

SCONC→~~SECTION 19. REPEAL.---Sections 62-18-1 through 62-18-23 NMSA 1978 (being Laws 2019, Chapter 65, Sections 1 through 23) are repealed.~~←SCONC