

2023 Kansas Statutes

66-1,244. Property rights of securitized utility tariff property specified in a financing order.

(a) All securitized utility tariff property specified in a financing order constitutes an existing, present intangible property right or interest therein, notwithstanding that the imposition and collection of securitized utility tariff charges depends on the public utility to which the financing order is issued performing its servicing functions relating to the collection of securitized utility tariff charges and on future electricity or natural gas consumption. Such property exists:

(1) Regardless of whether revenues or proceeds arising from the property have been billed, have accrued or have been collected; and

(2) notwithstanding the fact that the value or amount of the property is dependent on the future provision of service to customers by the public utility or its successors or assignees and the future consumption of electricity or natural gas by customers.

(b) Securitized utility tariff property specified in a financing order shall exist until securitized utility tariff bonds issued pursuant to the financing order have been paid in full and all financing costs and other costs of such securitized utility tariff bonds have been recovered in full.

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

(d) If a public utility defaults on any required remittance of securitized utility tariff charges arising from securitized utility tariff property specified 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 securitized utility tariff property to the financing parties or their assignees. Any such financing order shall remain in full force and effect notwithstanding any reorganization, bankruptcy or other insolvency proceedings with respect to the public utility or its successors or assignees.

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

(f) Any successor to a public utility, whether pursuant to any reorganization, bankruptcy or other insolvency proceeding or whether pursuant to any merger or acquisition, sale or other business combination, or transfer by operation of law, as a result of the public utility restructuring or otherwise, shall perform and satisfy all obligations of, and have the same rights under a financing order as, the public utility under the financing order in the same manner and to the same extent as the public utility, including collecting and paying to the person entitled to receive the revenues, collections, payments or proceeds of the securitized utility tariff property. Nothing in this section shall be construed to limit or impair any authority of the commission concerning the transfer or succession of interests of public utilities.

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

History: L. 2021, ch. 29, § 5; April 22.