State of Minnesota
HOUSE OF REPRESENTATIVES
NINETY-THIRD SESSION
H. F. No. 2255

02/27/2023 Authored by Stephenson
The bill was read for the first time and referred to the Committee on Climate and Energy Finance and Policy

A bill for an act

relating to energy; authorizing natural gas utilities to sell extraordinary event bonds under certain circumstances; establishing an account; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 216B.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. **[216B.491] DEFINITIONS.**

Subdivision 1. **Scope.** For the purposes of sections 216B.491 to 216B.499, the terms defined in this subdivision have the meanings given.

Subd. 2. **Ancillary agreement.** "Ancillary agreement" means any bond, insurance policy, letter of credit, reserve account, surety bond, interest rate lock or swap arrangement, liquidity or credit support arrangement, or other financial arrangement entered into in connection with extraordinary event bonds that is designed to promote the credit quality and marketability of extraordinary event bonds or to mitigate the risk of an increase in interest rates.

Subd. 3. **Assignee.** "Assignee" means any person to which an interest in extraordinary event property is sold, assigned, transferred, or conveyed, other than as security, and any successor to or subsequent assignee of the person.

Subd. 4. **Bondholder.** "Bondholder" means any holder or owner of extraordinary event bonds.

Subd. 5. **Customer.** "Customer" means a person who takes natural gas service from a natural gas utility for consumption of natural gas in Minnesota.

Subd. 6. **Extraordinary event.** (a) "Extraordinary event" means an event arising from unforeseen circumstances and of sufficient magnitude, as determined by the commission:

(1) to impose significant costs on customers; and

(2) for which the issuance of extraordinary event bonds in response to the event meets the conditions of section 216B.492, subdivision 2, as determined by the commission.

(b) Extraordinary event includes but is not limited to a storm event or other natural disaster, an act of God, war, terrorism, sabotage or vandalism, a cybersecurity attack, or a temporary significant increase in the wholesale price of natural gas.

Subd. 7. **Extraordinary event activity.** "Extraordinary event activity" means an activity undertaken by or on behalf of a utility to restore or maintain the utility's ability to provide natural gas service following one or more extraordinary events, including but not limited to activities related to mobilization, staging, construction, reconstruction, replacement, or repair of natural gas transmission, distribution, storage, or general facilities.

Subd. 8. **Extraordinary event bonds.** "Extraordinary event bonds" means debt securities, including but not limited to senior secured bonds, debentures, notes, certificates of participation, certificates of beneficial interest, certificates of ownership, or other evidences of indebtedness or ownership, that (1) have a scheduled maturity of no longer than 30 years and a final legal maturity date that is not later than 32 years from the issue date, (2) are rated AA or Aa2 or better by a major independent credit rating agency at the time of issuance, and (3) are issued by a utility or an assignee under a financing order.

Subd. 9. **Extraordinary event charge.** "Extraordinary event charge" means a nonbypassable charge that:

(1) a utility that is the subject of a financing order or the utility's successors or assignees imposes on all of the utility's customers;

(2) is separate from the utility's base rates; and

(3) provides a source of revenue solely to repay, finance, or refinance extraordinary event costs.

Subd. 10. **Extraordinary event costs.** "Extraordinary event costs":

(1) means all incremental costs of extraordinary event activities that are approved by the commission in a financing order issued under section 216B.492 as being:

(i) necessary to enable the utility to restore or maintain natural gas service to customers after the utility experiences an extraordinary event; and

(ii) prudent and reasonable;

(2) includes costs to repurchase equity or retire any indebtedness relating to extraordinary event activities;

(3) are net of applicable insurance proceeds, tax benefits, and any other amounts intended to reimburse the utility for extraordinary event activities, including government grants or aid of any kind;

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

(5) must be adjusted to reflect:

(i) the difference, as determined by the commission, between extraordinary event costs that the utility expects to incur and actual, reasonable, and prudent costs incurred; or

(ii) a more fair or reasonable allocation of extraordinary event costs to customers over time, as expressed in a commission order, provided that after the issuance of extraordinary event bonds relating to the extraordinary event costs, the adjustment must not (A) impair the value of the extraordinary event property relating to the extraordinary event bonds, or (B) reduce, alter, or impair extraordinary event charges relating to the extraordinary event bonds, until all principal and interest payable on the extraordinary event bonds, all financing costs for the extraordinary event bonds, and all amounts to be paid to an assignee or financing party under an ancillary agreement relating to the extraordinary event bonds are paid in full.

Subd. 11. **Extraordinary event property.** "Extraordinary event property" means:

(1) all rights and interests of a utility or the utility's successor or assignee under a financing order for the right to impose, bill, collect, receive, and obtain periodic adjustments to extraordinary event charges authorized under a financing order issued by the commission; and

(2) all revenue, collections, claims, rights to payments, payments, money, or proceeds arising from the rights and interests specified in clause (1), regardless of whether any are commingled with other revenue, collections, rights to payment, payments, money, or proceeds.

Subd. 12. **Extraordinary event revenue.** "Extraordinary event revenue" means revenue, receipts, collections, payments, money, claims, or other proceeds arising from extraordinary event property.

Subd. 13. **Financing costs.** "Financing costs" means:

(1) principal, interest, and redemption premiums that are payable on extraordinary event bonds;

(2) payments required under an ancillary agreement and amounts required to fund or replenish a reserve account or other accounts established under the terms of any indenture, ancillary agreement, or other financing document pertaining to extraordinary event bonds;

(3) other demonstrable costs related to issuing, supporting, repaying, refunding, and servicing extraordinary event bonds, including but not limited to servicing fees, accounting and auditing fees, trustee fees, legal fees, consulting fees, financial adviser fees, administrative fees, placement and underwriting fees, capitalized interest, rating agency fees, stock exchange listing and compliance fees, security registration fees, filing fees, information technology programming costs, and any other demonstrable costs necessary to otherwise ensure and guarantee the timely payment of extraordinary event bonds or other amounts or charges payable in connection with extraordinary event bonds;

(4) taxes and license fees imposed on the revenue generated from collecting an extraordinary event charge;

(5) state and local taxes, including franchise, sales and use, and other taxes or similar charges, including but not limited to regulatory assessment fees, whether paid, payable, or accrued; and

(6) costs incurred by the commission to hire and compensate additional temporary staff needed to perform the commission's responsibilities under this section and, in accordance with section 216B.494, to engage specialized counsel and expert consultants experienced in securitized utility ratepayer-backed bond financings similar to extraordinary event bond financings.

Subd. 14. **Financing order.** "Financing order" means an order issued by the commission under section 216B.492 that authorizes an applicant to:

(1) issue extraordinary event bonds in one or more series;

(2) impose, charge, and collect extraordinary event charges; and

(3) create extraordinary event property.

Subd. 15. **Financing party.** "Financing party" means a holder of extraordinary event bonds and a trustee, a collateral agent, a party under an ancillary agreement, or any other person acting for the benefit of extraordinary event bondholders.

Subd. 16. **Natural gas facility.** "Natural gas facility" means natural gas pipelines, including distribution lines, underground storage areas, liquefied natural gas facilities, propane storage tanks, and other facilities the commission determines are used and useful to provide natural gas service to retail and transportation customers in Minnesota.

Subd. 17. **Nonbypassable.** "Nonbypassable" means an extraordinary event charge required to pay (1) principal and interest on extraordinary event bonds, and (2) other financing costs, that a retail customer located within a utility service area cannot avoid and must pay.

Subd. 18. **Pretax costs.** "Pretax costs" means costs incurred by a utility and approved by the commission, including but not limited to:

(1) unrecovered capitalized costs of replaced natural gas facilities damaged or destroyed by an extraordinary event;

(2) costs to decommission and restore the site of a natural gas facility damaged or destroyed by an extraordinary event;

(3) other applicable capital and operating costs, accrued carrying charges, deferred expenses, reductions for applicable insurance, and salvage proceeds; and

(4) costs to retire any existing indebtedness, fees, costs, and expenses to modify existing debt agreements, or for waivers or consents related to existing debt agreements.

Subd. 19. **Storm event.** "Storm event" means a tornado, derecho, ice or snow storm, wildfire, flood, earthquake, or other significant weather or natural disaster that causes substantial damage to a utility's infrastructure.

Subd. 20. **Successor.** "Successor" means a legal entity that succeeds by operation of law to the rights and obligations of another legal entity as a result of bankruptcy, reorganization, restructuring, other insolvency proceeding, merger, acquisition, consolidation, or sale or transfer of assets.

Subd. 21. **Utility.** "Utility" means a public utility, as defined in section 216B.02, subdivision 4, that provides natural gas service to Minnesota customers. Utility includes the utility's successors or assignees.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 2. **[216B.492] FINANCING ORDER.**

Subdivision 1. **Application.** (a) A utility may file an application with the commission for the issuance of a financing order to enable the utility to recover extraordinary event costs through the issuance of extraordinary event bonds under this section.

(b) The application must include the following information, as applicable:

(1) a description of each natural gas facility to be repaired or replaced;

(2) the undepreciated value remaining in the natural gas facility whose repair or replacement is proposed to be financed through the issuance of extraordinary event bonds under sections 216B.491 to 216B.499, and the method used to calculate the amount;

(3) the estimated costs imposed on customers resulting from an extraordinary event that involves no physical damage to natural gas facilities;

(4) the estimated savings or estimated mitigation of rate impacts to utility customers if the financing order is issued as requested in the application, calculated by comparing the costs to customers that are expected to result from implementing the financing order and the estimated costs associated with implementing traditional utility financing mechanisms with respect to the same undepreciated balance, expressed in net present value terms;

(5) a description of (i) the nonbypassable extraordinary event charge utility customers would be required to pay in order to fully recover financing costs, and (ii) the method and assumptions used to calculate the amount;

(6) a proposed methodology to allocate the revenue requirement for the extraordinary event charge among the utility's customer classes;

(7) a description of a proposed adjustment mechanism that is implemented when necessary to correct any overcollection or undercollection of extraordinary event charges, in order to complete payment of scheduled principal and interest on extraordinary event bonds and other financing costs in a timely fashion;

(8) a memorandum with supporting exhibits, from a securities firm that is experienced in the marketing of securitized utility ratepayer-backed bonds and that is approved by the commissioner of management and budget, indicating the proposed issuance satisfies the current published AA or Aa2 or higher rating or equivalent rating criteria of at least one nationally recognized securities rating organization for issuances similar to the proposed extraordinary event bonds;

(9) an estimate of the timing of the issuance and the term of the extraordinary event bonds, or series of bonds, provided that the scheduled final maturity for each bond issuance does not exceed 30 years;

(10) identification of plans to sell, assign, transfer, or convey, other than as a security, interest in extraordinary event property, including identification of an assignee, and

demonstration that the assignee is a financing entity that is wholly owned, directly or indirectly, by the utility;

(11) identification of ancillary agreements that may be necessary or appropriate;

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

(13) the extent of damage to the utility's natural gas facility caused by an extraordinary event and the estimated costs to repair or replace the damaged natural gas facility;

(14) a schedule of the proposed repairs to and replacement of the damaged natural gas facility;

(15) a description of the steps taken to provide customers interim natural gas service while the damaged natural gas facility is being repaired or replaced; and

(16) a description of the impacts on the utility's current workforce resulting from implementing a repair or replacement plan following an extraordinary event.

Subd. 2. **Findings.** After providing notice and holding a public hearing on an application filed under subdivision 1, the commission may issue a financing order if the commission finds that:

(1) the extraordinary event costs described in the application are reasonable;

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

(i) are just and reasonable;

(ii) are consistent with the public interest;

(iii) constitute a prudent and reasonable mechanism to finance the extraordinary event costs; and

(iv) provide tangible and quantifiable benefits to customers, either by providing lower overall costs or mitigating rate impacts relative to traditional methods of financing, that exceed the benefits that would have been achieved absent the issuance of extraordinary event bonds; and

(3) the proposed structuring, marketing, and pricing of the extraordinary event bonds:

(i) lower overall costs to customers or mitigate rate impacts to customers relative to traditional methods of financing; and

(ii) achieve customer savings or mitigation of rate impacts to customers, as determined by the commission in a financing order, consistent with market conditions at the time of sale and the terms of the financing order.

Subd. 3. **Contents.** (a) A financing order issued under this section must:

(1) determine the maximum amount of extraordinary event costs that may be financed from proceeds of extraordinary event bonds issued pursuant to the financing order;

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

(3) describe the financing costs that may be recovered through extraordinary event charges and the period over which the costs may be recovered, which must end no earlier than the date of final legal maturity of the extraordinary event bonds;

(4) describe the extraordinary event property that is created and that may be used to pay, and secure the payment of, principal and interest on the extraordinary event bonds and other financing costs authorized in the financing order;

(5) authorize the utility to finance extraordinary event costs through the issuance of one or more series of extraordinary event bonds. A utility is not required to secure a separate financing order for each issuance of extraordinary event bonds or for each scheduled phase of the replacement of natural gas facilities approved in the financing order;

(6) include a formula-based mechanism that must be used to make expeditious periodic adjustments to the extraordinary event charges authorized by the financing order that are necessary to correct for any overcollection or undercollection, or to otherwise provide for the timely payment of extraordinary event bonds, other financing costs, and other required amounts and charges payable in connection with extraordinary event bonds;

(7) specify the degree of flexibility afforded to the utility in establishing the terms and conditions of the extraordinary event bonds, including but not limited to repayment schedules, expected interest rates, and other financing costs;

(8) specify that the extraordinary event bonds must be issued, subject to market conditions and the terms of the financing order, as soon as feasible following issuance of the financing order;

(9) require the utility, at the same time as extraordinary event charges are initially collected and independent of the schedule to close and decommission any natural gas facility replaced as the result of an extraordinary event, if any, to remove the natural gas facility from the utility's rate base and commensurately reduce the utility's base rates;

(10) specify a future ratemaking process to reconcile any difference between the projected pretax costs included in the amount financed by extraordinary event bonds and the final actual pretax costs incurred by the utility to retire or replace the natural gas facility, if any;

(11) specify information regarding extraordinary event bond issuance and repayments, financing costs, energy transaction charges, extraordinary event property, and related matters that the natural gas utility is required to provide to the commission on a schedule determined by the commission;

(12) allow or require the creation of a utility's extraordinary event property to be conditioned on, and occur simultaneously with, the sale or other transfer of the extraordinary event property to an assignee and the pledge of the extraordinary event property to secure the extraordinary event bonds;

(13) ensure that the structuring, marketing, and pricing of extraordinary event bonds result in reasonable securitization bond charges and customer savings or rate impact mitigation, consistent with market conditions and the terms of the financing order; and

(14) specify that a utility financing the replacement of one or more natural gas facilities after the natural gas facilities subject to the finance order are removed from the utility's rate base is prohibited from:

(i) operating the natural gas facilities; or

(ii) selling the natural gas facilities to another entity to operate as natural gas facilities.

(b) A financing order issued under this section may:

(1) include conditions different from those requested in the application that the commission determines are necessary to:

(i) promote the public interest; and

(ii) maximize the financial benefits or minimize the financial risks of the transaction to customers and to directly impacted Minnesota workers and communities; and

(2) specify the selection of one or more underwriters of the extraordinary event bonds.

Subd. 4. **Duration; irrevocability; subsequent order.** (a) A financing order remains in effect until the extraordinary event bonds issued under the financing order and all financing costs related to the extraordinary event bonds have been paid in full.

(b) A financing order remains in effect and unabated notwithstanding the bankruptcy, reorganization, or insolvency of the utility to which the financing order applies or any affiliate, successor, or assignee of the utility to which the financing order applies.

(c) Subject to judicial review under section 216B.52, a financing order is irrevocable and is not reviewable by a future commission. The commission must not: (1) reduce, impair, postpone, or terminate extraordinary event charges approved in a financing order; or (2) impair extraordinary event property or the collection or recovery of extraordinary event charges and extraordinary event revenue.

(d) Notwithstanding paragraph (c), the commission may, on the commission's own motion or at the request of a utility or any other person, commence a proceeding and issue a subsequent financing order that provides for refinancing, retiring, or refunding extraordinary event bonds issued under the original financing order if:

(1) the commission makes all of the findings specified in subdivision 2 with respect to the subsequent financing order; and

(2) the modification contained in the subsequent financing order does not in any way impair the covenants and terms of the extraordinary event bonds being refinanced, retired, or refunded.

Subd. 5. **Effect on commission jurisdiction.** (a) Except as provided in paragraph (b), the commission, in exercising the powers and carrying out the duties under this section, is prohibited from:

(1) considering extraordinary event bonds issued under this section to be debt of the utility other than for income tax purposes, unless it is necessary to consider the extraordinary event bonds to be debt in order to achieve consistency with prevailing utility debt rating methodologies;

(2) considering the extraordinary event charges paid under the financing order to be revenue of the utility;

(3) considering the extraordinary event costs or financing costs specified in the financing order to be the regulated costs or assets of the utility; or

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

(b) Nothing in this subdivision:

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

(2) prevents or precludes the commission from (i) investigating a utility's compliance with the terms and conditions of a financing order, and (ii) requiring compliance with the financing order; or

(3) prevents or precludes the commission from imposing regulatory sanctions against a utility for failure to comply with the terms and conditions of a financing order or the requirements of this section.

(c) The commission is prohibited from refusing to allow a utility to recover any costs associated with the replacement of natural gas facilities solely because the utility has elected to finance the natural gas facility replacement through a financing mechanism other than extraordinary event bonds.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 3. **[216B.493] POSTORDER COMMISSION DUTIES.**

Subdivision 1. **Financing cost review.** Within 120 days after the date extraordinary event bonds are issued, a utility subject to a financing order must file with the commission the actual initial and ongoing financing costs, the final structure and pricing of the extraordinary event bonds, and the actual extraordinary event charge. The commission must review the prudence of the natural gas utility's actions to determine whether the actual financing costs were the lowest that could reasonably be achieved given the terms of the financing order and market conditions prevailing at the time of the extraordinary event bond's issuance.

Subd. 2. **Enforcement.** If the commission determines that a utility's actions under this section are not prudent or are inconsistent with the financing order, the commission may apply remedies deemed appropriate for utility actions, provided that any remedy applied must not directly or indirectly (1) impair the value of the extraordinary event property, or (2) reduce, alter, or impair extraordinary event charges, until all principal and interest payable on the extraordinary event bonds, all financing costs, and all amounts to be paid to an assignee or financing party under an ancillary agreement are paid in full.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 4. **[216B.494] USE OF OUTSIDE EXPERTS.**

(a) In carrying out the duties under this section, the commission may:

(1) contract with outside consultants and counsel experienced in securitized utility customer-backed bond financing similar to extraordinary event bonds; and

(2) hire and compensate additional temporary staff as needed.

Expenses incurred by the commission under this paragraph must be treated as financing costs to be paid by the extraordinary event revenue. The costs incurred under clause (1) are not an obligation of the state and are assigned solely to the transaction.

(b) A utility presented with a written request from the commission for reimbursement of the commission's expenses incurred under paragraph (a), accompanied by a detailed account of those expenses, must remit full payment of the expenses to the commission within 30 days of receiving the request.

(c) If a utility's application for a financing order is denied or withdrawn for any reason and extraordinary event bonds are not issued, the commission's costs to retain expert consultants under this section must be paid by the applicant utility and are deemed a prudent deferred expense eligible for recovery in the utility's future rates.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 5. **[216B.495] EXTRAORDINARY EVENT CHARGE; BILLING TREATMENT.**

(a) A utility that obtains a financing order and issues extraordinary event bonds must:

(1) include on each customer's monthly natural gas bill:

(i) a statement that a portion of the charges represents extraordinary event charges approved in a financing order;

(ii) the amount and rate of the extraordinary event charge as a separate line item titled "extraordinary event charge"; and

(iii) if extraordinary event property has been transferred to an assignee, a statement that the assignee is the owner of the rights to extraordinary event charges and that the utility or other entity, if applicable, is acting as a collection agent or servicer for the assignee; and

(2) file annually with the commission:

(i) a calculation that identifies the impact financing the retirement or replacement of natural gas facilities has on customer rates, itemized by customer class; and

(ii) evidence demonstrating that extraordinary event revenues are applied solely to pay (A) principal and interest on extraordinary event bonds, and (B) other financing costs.

(b) Extraordinary event charges are nonbypassable and must be paid by all existing and future customers receiving service from the utility or the utility's successors or assignees under commission-approved rate schedules or special contracts.

(c) A utility's failure to comply with this section does not invalidate, impair, or affect any financing order, extraordinary event property, extraordinary event charge, or extraordinary event bonds, but does subject the utility to penalties under applicable commission rules provided that any penalty applied must not directly or indirectly (1) impair the value of the extraordinary event property, or (2) reduce, alter, or impair extraordinary event charges, until all principal and interest payable on the extraordinary event bonds, all financing costs, and all amounts to be paid to an assignee or financing party under an ancillary agreement are paid in full.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 6. **[216B.496] EXTRAORDINARY EVENT PROPERTY.**

Subdivision 1. **General.** (a) Extraordinary event property is an existing present property right or interest in a property right, even though the imposition and collection of extraordinary event charges depend on the utility collecting extraordinary event charges and on future natural gas consumption. The property right or interest exists regardless of whether the revenues or proceeds arising from the extraordinary event property have been billed, have accrued, or have been collected.

(b) Extraordinary event property exists until all extraordinary event bonds issued under a financing order are paid in full and all financing costs and other costs of the extraordinary event bonds have been recovered in full.

(c) All or any portion of extraordinary event property described in a financing order issued to a utility may be transferred, sold, conveyed, or assigned to a successor or assignee that is wholly owned, directly or indirectly, by the utility and is created for the limited purpose of acquiring, owning, or administering extraordinary event property or issuing extraordinary event bonds authorized by the financing order. All or any portion of extraordinary event property may be pledged to secure extraordinary event 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 utility or an affiliate of extraordinary event property is a transaction in the ordinary course of business.

(d) If a utility defaults on any required payment of charges arising from extraordinary event property described in a financing order, a court, upon petition by an interested party and without limiting any other remedies available to the petitioner, must order the sequestration and payment of the revenues arising from the extraordinary event property to the financing parties.

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

(f) A successor to a utility, whether resulting from a reorganization, bankruptcy, or other insolvency proceeding, merger or acquisition, sale, other business combination, transfer by operation of law, utility restructuring, or otherwise, must: (1) perform and satisfy all obligations of, and has the same duties and rights under, a financing order as the utility to which the financing order applies; and (2) perform the duties and exercise the rights in the same manner and to the same extent as the utility, including collecting and paying to any person entitled to receive revenues, collections, payments, or proceeds of extraordinary event property.

Subd. 2. **Security interests in extraordinary event property.** (a) The creation, perfection, and enforcement of any security interest in extraordinary event property to secure the repayment of the principal and interest on extraordinary event bonds, amounts payable under any ancillary agreement, and other financing costs are governed solely by this section.

(b) A security interest in extraordinary event property is created, valid, and binding when:

(1) the financing order that describes the extraordinary event property is issued;

(2) a security agreement is executed and delivered; and

(3) value is received for the extraordinary event bonds.

(c) Once a security interest in extraordinary event property is created, the security interest attaches without any physical delivery of collateral or any other act. The lien of the security interest is valid, binding, and perfected against all parties having claims of any kind in tort, contract, or otherwise against the person granting the security interest, regardless of whether the parties have notice of the lien, upon the filing of a financing statement with the secretary of state.

(d) The description or indication of extraordinary event property in a transfer or security agreement and a financing statement is sufficient only if the description or indication refers to this section and the financing order creating the extraordinary event property.

(e) A security interest in extraordinary event property is a continuously perfected security interest and has priority over any other lien, created by operation of law or otherwise, which may subsequently attach to the extraordinary event property unless the holder of the security interest has agreed otherwise in writing.

(f) The priority of a security interest in extraordinary event property is not affected by the commingling of extraordinary event property or extraordinary event revenue with other money. An assignee, bondholder, or financing party has a perfected security interest in the amount of all extraordinary event property or extraordinary event revenue that is pledged to pay extraordinary event bonds, even if the extraordinary event property or extraordinary event revenue is deposited in a cash or deposit account of the utility in which the extraordinary event revenue is commingled with other money. Any other security interest that applies to the other money does not apply to the extraordinary event revenue.

(g) Neither a subsequent commission order amending a financing order under section 216B.492, subdivision 4, nor application of an adjustment mechanism authorized by a financing order under section 216B.492, subdivision 3, affects the validity, perfection, or priority of a security interest in or transfer of extraordinary event property.

Subd. 3. **Sales of extraordinary event property.** (a) A sale, assignment, or transfer of extraordinary event 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 extraordinary event property if the documents governing the transaction expressly state that the transaction is a sale or other absolute transfer. A transfer of an interest in extraordinary event property may be created when:

(1) the financing order creating and describing the extraordinary event property is effective;

(2) the documents evidencing the transfer of the extraordinary event property are executed and delivered to the assignee; and

(3) value is received.

(b) 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, is not affected or impaired by:

(1) commingling of extraordinary event revenue with other money;

(2) the seller retaining:

(i) a partial or residual interest, including an equity interest, in the extraordinary event property, whether (A) direct or indirect, or (B) subordinate or otherwise; or

(ii) the right to recover costs associated with taxes, franchise fees, or license fees imposed on the collection of extraordinary event revenue;

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

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

(5) the extraordinary event property seller's to collect extraordinary event 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 under section 216B.492, subdivision 4, paragraph (d); or

(8) any application of an adjustment mechanism under section 216B.492, subdivision 3, paragraph (a), clause (6).

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 7. **[216B.497] EXTRAORDINARY EVENT BONDS.**

(a) Banks, trust companies, savings and loan associations, insurance companies, executors, administrators, guardians, trustees, and other fiduciaries may legally invest any money within the individual's or entity's control in extraordinary event bonds.

(b) Extraordinary event 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 political subdivision. Holders of extraordinary event bonds may not have taxes levied by the state or a political subdivision in order to pay the principal or interest on extraordinary event bonds. The issuance of extraordinary event bonds does not directly, indirectly, or contingently obligate the state or a political subdivision to levy any tax or make any appropriation to pay principal or interest on the extraordinary event bonds.

(c) The state pledges to and agrees with holders of extraordinary event bonds, any assignee, and any financing parties that the state and state agencies, including the commission, are prohibited from:

(1) taking or permitting any action that impairs the value of extraordinary event property; or

(2) reducing, altering, or impairing extraordinary event charges that are imposed, collected, and remitted for the benefit of holders of extraordinary event bonds, any assignee, and any financing parties until any principal, interest, and redemption premium payable on extraordinary event bonds, all financing costs, and all amounts to be paid to an assignee or financing party under an ancillary agreement are paid in full.

(d) The commission may include a pledge in the financing order similar to the state pledge included in paragraph (c).

(e) A person who issues extraordinary event bonds may include the pledge specified in paragraphs (c) and (d) in the extraordinary event bonds, ancillary agreements, and documentation related to the issuance and marketing of the extraordinary event bonds.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 8. **[216B.498] ASSIGNEE OF FINANCING PARTY NOT SUBJECT TO COMMISSION REGULATION.**

An assignee or financing party that is not already regulated by the commission does not become subject to commission regulation solely as a result of engaging in any transaction authorized by or described in sections 216B.491 to 216B.499.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 9. **[216B.499] EFFECT ON OTHER LAWS.**

(a) If any provision of sections 216B.491 to 216B.499 conflicts with any other law regarding the attachment, assignment, perfection, effect of perfection, or priority of any security interest in or transfer of extraordinary event property, sections 216B.491 to 216B.499 govern.

(b) Nothing in this section precludes a utility for which the commission has initially issued a financing order from applying to the commission for:

(1) a subsequent financing order amending the financing order under section 216B.492, subdivision 4, paragraph (d); or

(2) approval to issue extraordinary event bonds to refund all or a portion of an outstanding series of extraordinary event bonds.

EFFECTIVE DATE. This section is effective the day following final enactment.