

2023 Kansas Statutes

- 66-1,245. Security interest in securitized utility tariff property; governing provisions.** (a) The creation, perfection, priority and enforcement of any security interest in securitized utility tariff property to secure the repayment of the principal and interest and other amounts payable in respect of securitized utility tariff bonds, amounts payable under any ancillary agreement and other financing costs are governed by this section and K.S.A. 2023 Supp. 66-1,247 and 66-1,248, and amendments thereto, and not by the provisions of the code, except as otherwise provided in this section and K.S.A. 2023 Supp. 66-1,247 and 66-1,248, and amendments thereto.
- (b) A security interest in securitized utility tariff property is created, valid and binding at the latest of the time:
- (1) The financing order is issued;
 - (2) a security agreement is executed and delivered by the debtor granting such security interest;
 - (3) the debtor has rights in such securitized utility tariff property or the power to transfer rights in such securitized utility tariff property; or
 - (4) when value is received for the securitized utility tariff property.
- (c) The description of securitized utility tariff property in a security agreement is sufficient if the description refers to this section and the financing order creating the securitized utility tariff property. A security interest shall attach as provided in subsection (b) without physical delivery of collateral or other act.
- (d) Upon filing of a financing statement with the office of the secretary of state, as provided in K.S.A. 2023 Supp. 66-1,248, and amendments thereto, the security interest in securitized utility tariff property shall be perfected against all parties having claims of any kind in tort, contract or otherwise against the person granting the security interest and regardless of whether the parties have notice of the security interest. Without limitation, upon such filing, a security interest in the securitized utility tariff property shall be perfected against all claims of lien creditors and shall have priority over all competing security interests and other claims other than any security interest previously perfected in accordance with this section.
- (e) The priority of a security interest in securitized utility tariff property is not affected by the commingling of securitized utility tariff charges with other amounts. A pledgee or secured party shall have a perfected security interest in the amount of all securitized utility tariff charges that are deposited in any cash or deposit account of the qualifying public utility in which securitized utility tariff charges have been commingled with other funds, 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.
- (f) No application of the adjustment mechanism pursuant to K.S.A. 2023 Supp. 66-1,241, and amendments thereto, shall affect the validity, perfection or priority of a security interest in or transfer of securitized utility tariff property.
- (g) If a default occurs under securitized utility tariff bonds that are secured by a security interest in securitized utility tariff property, the financing parties or their representatives may exercise the rights and remedies available to a secured party under the code, including the rights and remedies available under part 6 of article 9 of the code, and amendments thereto, as if they were secured parties with a perfected and prior lien under the code. The commission may also order amounts arising from securitized utility tariff charges be transferred to a separate account for the financing parties' benefit, to which their lien and security interest shall apply. On application by or on behalf of the financing parties, the district court of the county where the public utility's headquarters is located shall order the sequestration and payment to such financing parties of revenues arising from the securitized utility tariff charges.
- History:** L. 2021, ch. 29, § 6; April 22.