

HCS HB 404, 324, 403, 344, 426 & 541 -- REGULATION OF ELECTRIC,
GAS, AND WATER UTILITIES

SPONSOR: Rector

COMMITTEE ACTION: Voted "do pass" by the Committee on
Communications, Energy, and Technology by a vote of 19 to 2.

This substitute makes numerous changes to laws regulating
electric, gas, and water utilities.

PUBLIC SERVICE COMMISSION

Under current law, members of the Public Service Commission must
reside within 40 miles of Jefferson City. The substitute just
requires commissioners to be Missouri residents.

The substitute also requires the commission to retain a
six-member technical advisory staff with expertise in accounting,
economics, finance, engineering or utility operations, law, and
public policy. Each commissioner may also retain a personal
advisor. All hiring of technical advisory staff members must be
completed by July 1, 2004, and be offset through elimination of
other commission staff positions. Advisory staff members cannot
be a party to any case before the commission and are subject to
the same ex parte and conflict of interest requirements as
commissioners. No one regulated by, appearing before, or
employed by the commission may offer advisory staff members new
appointments or positions. No one leaving the advisory staff can
be employed by the commission in any other capacity for at least
two years; and new advisory staff members cannot have been
employed by the commission, the Office of the Public Counsel, or
any company regulated by the commission for at least two years
before being hired.

Commissioners may confer with others on matters not relating to
filed cases. Commissioners may also confer with others on
matters relating to pending or filed cases if no evidentiary
hearing has been scheduled and if the matter is discussed at an
announced public meeting or a forum where affected parties are
present or if the discussion is subsequently disclosed to
affected parties. If an evidentiary hearing has been scheduled,
commissioners may only discuss matters relating to procedures or
unanimous agreements that resolve a case fully.

UTILITY CONTRACTS AND PROJECTS

The substitute allows gas and electric corporations, prior to
entering into certain new contracts or construction projects, to
file a petition with the commission requesting a determination of

rate-making principles that will be applied to costs prudently incurred over the term of the contract or useful life of the constructed facility. To be eligible, contracts must be for the purchase of at least \$5 million of electric power, and projects must involve construction of a new electric or gas plant costing at least \$5 million for companies serving from 100,000 to one million Missouri customers, or at least \$25 million for companies serving more than one million Missouri customers.

After receiving the petition, if the commission does not issue an order within 180 days, the rate-making principles proposed by the corporation will be considered approved. Within one year after the determination, the corporation must notify the commission if it plans to participate in the contract or construction project. If the corporation decides not to participate, the determination will be invalid and have no precedential value in subsequent proceedings.

ENERGY COST ADJUSTMENTS

The substitute allows electric corporations to recover prudently incurred costs for fuel and purchased electricity through energy adjustment rate schedules. The schedules may be filed with the commission separately or as part of a general rate proceeding. The commission must allow modification of the rates as frequently as every 30 days to reflect changes in costs that are not reflected in the corporation's base rates. The commission will establish a procedure to provide customer credits or refunds for any over-estimated costs and collections.

Each corporation that has an energy adjustment rate schedule on file with the commission will submit a monthly adjustment report including calculation of the next month's energy adjustment rate. The commission may only examine the calculations for accuracy and may not consider other costs or overall rates. The commission's decision on each proposed rate adjustment will become effective no later than 30 days after filing. Rates are not subject to suspension by the commission.

This portion of the substitute contains an emergency clause.

COST RECOVERY FOR INFRASTRUCTURE SYSTEM REPLACEMENT PROJECTS

The substitute allows gas corporations and water corporations serving more than 10,000 customers to file petitions with the commission for rate adjustments that recover from customers prudently incurred costs for infrastructure replacement projects. Eligible projects may include replacement of deteriorating equipment, safety enhancements, and non-reimbursed costs of facility relocations required by highway and other public works

construction. Projects may not increase revenue by connecting to new customers and must not have been included in the corporation's last general rate case.

Commission staff may examine the petition and submit a report within 60 days. The commission may hold a public hearing and must issue an order that becomes effective within 120 days after the petition is filed. During its consideration of the petition, the commission may not examine the corporation's other revenue requirements or rate-making issues.

Adjustment charges must appear on customer's bills as a separate charge and may only apply to classes of customers that receive benefits from the infrastructure replacement project. Charges must be applied in a manner consistent with the customer class cost-of-service study from the corporation's most recent general rate proceeding. Charges will not be approved if the corporation's last general rate proceeding was more than three years before the petition was filed or if the adjustment produces revenue exceeding 10% of the base revenue level approved in the corporation's last general rate proceeding. Rates may not be adjusted more than twice a year, and charges may not be collected for more than three years unless the corporation has filed or is the subject of a new general rate proceeding. Estimated monthly charges are subject to annual reconciliation.

COST RECOVERY FOR SECURITY MEASURES AND RELOCATIONS

The substitute requires the commission to allow electric, gas, and water corporations to recover from customers prudent costs for security measures, including incremental insurance costs, that were incurred after August 28, 2003, and necessary to comply with federal, state, and local requirements. Requests will be protected from public disclosure. The commission is also required to allow electric corporations to recover non-reimbursed costs of facility relocations required by highway and other public works projects. Cost recovery will not be approved if the corporation's last general rate proceeding was more than three years before the petition was filed or if the corporation has been the subject of an earnings review. Charges may not be collected for more than three years unless the corporation has filed or is the subject of a new general rate proceeding.

OTHER PROVISIONS

In other provisions, the substitute:

(1) Allows the commission to approve programs that assist low-income residential customers in obtaining reliable utility service. Terms and conditions must be proposed by an electric or

gas corporation, may include energy efficiency, weatherization, and evaluation components, and must not have a negative financial effect on the corporation; and

(2) Requires anyone who acquires an interest of at least 5% ownership in both a public utility regulated by the commission and an entity that supplies more than \$1 million in products per year to the same utility to notify the commission within 30 days. Failure to report is a class A misdemeanor.

FISCAL NOTE: Estimated Net Cost to General Revenue Fund of \$686,487 in FY 2004, \$599,024 in FY 2005, and \$607,660 in FY 2006. Estimated Net Effect on Public Service Commission Fund of \$0 in FY 2004, FY 2005, and FY 2006.

PROPOSERS: Supporters of House Bill 404 say that the bill will improve the commission's ability to analyze increasingly complex issues and remove uncertainty about ex parte communications.

Supporters of House Bill 324 say that prior approval of rate-making principles will improve the ability of utilities to attract capital for energy projects and reduce costs.

Supporters of House Bill 403 say that increasing volatility in natural gas prices makes periodic fuel cost adjustments financially critical for utilities. Costs are merely passed through, with an annual true-up and no added profit.

Supporters of House Bill 344 and House Bill 426 say that the bill will allow utilities to promptly recover costs of government-mandated security measures and infrastructure system replacement projects.

Supporters of House Bill 541 say that the bill allows the commission and utilities to develop voluntary programs that will aid low-income customers and lower overall costs by reducing the number of disconnections and re-connections.

Testifying for House Bill 404 were Representative Rector; Ameren UE; Missouri Energy Development Association; Office of the Public Counsel; and Public Service Commission.

Testifying for House Bill 324 were Representative Richard; Missouri Energy Development Association; Empire District Electric Corporation; Great Plains Energy Services Company; Ameren UE; Laclede Gas Company; and Missouri Chamber of Commerce.

Testifying for House Bill 403 were Representative Rector; Missouri Energy Development Association; Missouri Gas Energy; Great Plains Energy Services Company; Ameren UE; Empire District

Electric Corporation; and Laclede Gas Company.

Testifying for House Bill 344 and House Bill 426 were Representative Willoughby; Missouri Gas Energy; Great Plains Energy Services Company; Missouri American Water Company; United Steelworkers of America; Aquila, Inc.; and Empire District Electric Company.

Testifying for House Bill 541 were Representative Willoughby; Ameren UE; Aquila, Inc.; Missouri Gas Energy; Empire District Electric Corporation; Laclede Gas Company; and Office of the Public Counsel.

OPPONENTS: Those who oppose House Bill 324 say that prior approval of rate-making principles removes incentives for utilities to be prudent and is a risky departure from an existing regulatory system that has produced competitive rates and financially healthy utilities.

Those who oppose House Bill 403 say that allowing frequent fuel cost adjustments removes incentives for utilities to manage risks and will increase consumer costs.

Those who oppose House Bill 344 and House Bill 426 say that utilities are not financially disadvantaged under the current system of infrastructure cost recovery. Unwarranted secrecy could be applied to many deliberations under the bill's vague definition of security measures.

There was no opposition voiced to the committee on House Bill 404 and House Bill 541.

Testifying against House Bill 324 were Office of the Public Counsel; Missouri Industrial Energy Consumers; Missouri Energy Group; and AARP Missouri.

Testifying against House Bill 403 were Missouri Industrial Energy Consumers; Office of the Public Counsel; and Missouri Energy Group.

Testifying against House Bill 344 and House Bill 426 were Office of the Public Counsel; and Missouri Industrial Energy Consumers.

Terry Finger, Senior Legislative Analyst