

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4021-05
Bill No.: SCS for HB 1493
Subject: Energy; Public Service Commission; Utilities
Type: #Corrected
Date: April 29, 2004

#To reflect decision of the Committee on Legislative Research on April 29, 2003.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
General Revenue#	#(\$34,591)	#(\$32,342)	#(\$33,110)
Total Estimated Net Effect on General Revenue Fund#	#(\$34,591)	#(\$32,342)	#(\$33,110)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
Public Service Commission	\$0	\$0	\$0
Total Estimated Net Effect on Other State Funds*	\$0	\$0	\$0

*/Assumes costs to the Fund of \$174,916 to \$383,749 for FY 2005, \$215,283 to \$472,307 for FY 2006, and \$219,789 to \$482,407 for FY 2007, with offsetting increases in assessments against regulated utilities.

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 12 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Natural Resources** stated they do not anticipate any direct fiscal impact as a result of this proposal.

SECTION 393.156

Officials from the **Department of Economic Development - Office of Public Counsel (OPC)** state they would need three additional FTEs (engineer, attorney, and support staff person) as a result of the annual duties created by this legislation. In addition, Public Counsel would need to retain outside consultants to provide specialized expertise in the areas of utility plant planning and purchase power contract analysis, including native load generation alternatives along with the financial markets which include multi-year hedging contracts. Public Counsel anticipates the need to perform one general investigation per year. Public Counsel would require a consulting contract allowing for as needed services in order to respond to the limited time frame provided for under the proposal.

Current work spaces would have to be reorganized to provide space and accommodations for the 3 new employees within the Office of Public Counsel. Cubicles and furnishings would need to be furnished for new technical personnel. A cubicle already exists for the clerical position. It

ASSUMPTION (continued)

would be necessary to purchase three computers, an additional printer and copy machine. These costs were all obtained from Expense & Equipment Guidelines supplied to agencies from the Office of Administration - Division of Budget & Planning.

An engineer would be required to analyze the various planning and implementation procedures associated with the construction of plant in service. The engineer would be required to look at the technical questions related to plant investments and alternatives and power flows over the transmission grid as it relates to purchase power contracts. In addition, the proposal provides for expedited Commission review of any matter associated with questions of prudence of the plant in service. Public Counsel anticipates this bill would greatly increase the flow and analysis of information regarding the utilities plant investment practices and power purchasing procedures. The Public Utility Engineer is a position at Range 30 with a market step of R on the Division of Personnel Pay Grid A, effective January 1, 2001.

Outside consultants would be able to provide specialized knowledge in the areas of purchase power contracts and related generation alternatives. Public Counsel anticipates using the consultants for an average of one electric case each fiscal year. It would be most efficient to request bids for these consulting services. These consultants would be acquired by bid for a three year renewal contract due to the time considerations required under this proposal.

OPC does not currently have a sufficient number of attorneys to represent utility customers in any additional preapproval cases. An attorney would be required to present the witnesses and legal arguments on contested issues regarding prudence and predetermination for not only construction decisions but also rate making issues.

An additional support staff position will be needed in order to maintain the level of support required to existing and requested professional staff personnel. This would be a Senior Office Support Assistant position, which is Range 12 with a market step of M on the Division of Personnel Pay Grid A, effective January 1, 2001.

Oversight has, for fiscal note purposes only, changed the starting salary for the requested staff positions to correspond to the second step above minimum for comparable positions in the state's merit system pay grid. This decision reflects a study of actual starting salaries for new state employees for a six month period and the policy of the Oversight Subcommittee of the Joint Committee on Legislative Research.

Officials of the **Department of Economic Development, Public Service Commission (PSC)** assume the proposal would implement certain regulatory predeterminations for the electric

ASSUMPTION (continued)

utilities in the state of Missouri. This would result in additional filings, audits, prudency reviews and associated proceedings.

PSC would need the following positions to implement this proposal:

Regulatory Economist III - Responsible for reviewing the economic justification for the proposed project or contract. This evaluation would include a careful review of the key factors that support the chosen generation asset or purchased power contract. These key factors would include, but not be limited to, gas and coal prices and expected trends, purchased power cost and expected trends, transmission availability and cost and expected trends and a sensitivity analysis of each of these key factors.

Regulatory Engineer II- This engineer would be responsible for evaluation of the proposed projects and contract cost estimates in an expedited manner. These efforts would likely include an assessment of depreciation issues. He/she would also be responsible for working with other PSC engineers to coordinate work when the number of parallel proceedings makes it necessary to pull in resources to complete PSC work in the proposed time allotted (180 days).

This engineer would also be responsible for considering all proposed projects and contracts from a "need" basis, considering the other facilities currently operating, their condition, and any state or federally mandated safety requirements. A good understanding of total utility operation, resource planning, service quality, reliability, construction methods, and recent technologies would need to be maintained. This engineer would work closely with the auditor mentioned in this fiscal note.

Utility Regulatory Auditor IV - Responsible for coordinating and conducting the audits of the proposed facility or contract cases. These efforts would likely include a financial analysis of the capital issues related to the proposed projects. Would also be responsible for assuring that audits are being performed that are comprehensive and result in a complete assessment of costs associated with the proposed facilities and contracts. As needed, conduct meetings with the companies regarding their audits.

Regulatory Law Judge - Responsible for overseeing case processing for the PSC, conducting hearings, and issuing orders regarding intervention, protection of sensitive data, filing deadlines, conferences, final decisions, etc.

PSC Staffing Assumptions for Electric Predetermination

ASSUMPTION (continued)

In reviewing this proposal's different provisions and assessing their impacts to the PSC, a number of assumptions regarding how the number of Full Time Equivalents (FTE) was arrived at are important to understand. It is the PSC's belief that the utilities that have the option to utilize the provisions of this proposal will do so if they believe that an increase in revenues may result from this effort. In fact, it is their fiduciary responsibility to do so if they believe that revenues will be enhanced.

The provisions of this proposal may result in increased revenues, through increased rates, for the regulated electric utilities in Missouri. These increases in rates would impact Missouri's industries, business owners and residential customers.

In looking at the needed PSC staff to perform the tasks required by this proposed legislation, PSC considers the existing regulatory environment. The types of regulatory predeterminations described in this legislation will require significant effort to evaluate, monitor and review if they are to work as the proposed legislation intends.

This proposal will apply to the following utilities:

Electric Utilities (4 utilities with a total of 5 districts)

AmerenUE
Kansas City Power & Light Company
Empire District Electric Company
Aquila Networks (w/districts MPS and L&P)

Additional Filings Associated with Provisions of Legislation:

<u>Provisions</u>	<u>Assumed # of Filings</u>
Rate making Predetermination	8 Filings

The analysis of this legislation has been broken out below based on each of the provisions in the legislation.

Electric Rate making Predetermination

Fiscal Note Impact: Additional Workload

New annual filings from electric (4 electric utilities with 5 districts) that will include assessments

LMD:LR:OD (12/02)

ASSUMPTION (continued)

of need, anticipated costs, return on common equity, capital structure to finance the facility, estimated service life, depreciation rate for cost of service, jurisdictional allocation methods to be applied to the cost, in-service criteria, actual cost audits, testimony rounds (direct, rebuttal and surrebuttal) and hearings for each for PSC decision – all to support a 180 day decision cycle.

PSC will provide new ongoing prudence audits on the cost of facilities under construction and/or completed and contracts that have been executed.

Additional Number of Filings Estimate:

PSC assumed that the 4 electric utilities (AmerenUE, KCPL, Aquila and Empire) will file annually. This adds up to 4 electric filings per year. These filings may include generation units that could approach \$1 billion in estimated cost.

All of the filings will be accompanied by prudence audits that are assumed to occur with each case where ongoing costs and, upon completion of the project, actual costs will be audited. This adds up to 4 ongoing prudency/cost review audits. Total number of filings used for this fiscal note estimate = 8 per year (4 + 4)

Requested FTE:

PSC is currently asking for 3 FTE for non-adjudication divisions. This is based on the estimated number of complicated filings and issues to be addressed in an expedited time frame.

1 Engineer – Responsible for regular need assessments, ongoing construction cost reviews, completed construction and contract cost audits, and prudence audits.

1 Auditor – Responsible for regular cost reviews and audits, appropriate rate making treatment assessments, and prudence audits.

1 Economist – Responsible for economic analysis of key factors justifying project and sensitivity analysis of those key factors.

ADJUDICATION DIVISION ANALYSIS OF FISCAL NOTE IMPACT

Provision:

Impact:

Predetermination of Rate making Principles

1 Judge

LMD:LR:OD (12/02)

ASSUMPTION (continued)

Allows electric, natural gas and water utilities to obtain, on an expedited basis, binding determinations from the PSC as to the rate making treatment to be accorded proposed new assets. Assuming that 4 electric utilities file one such case each year and that each case is associated with a prudence and actual cost audit that is 8 additional cases annually. Moreover, each such case must be completed within no more than 180 days of filing.

PSC notes that these cases will be in addition to the general rate cases in which such concerns were formerly addressed, because the company will still need a rate case to get the new assets into rate base. Because these cases will directly impact rates, interventions are to be expected.

PSC notes that although this fiscal note reflects the request for FTEs, it is recognized that the application cutoff date of June 15, 2006 in the legislation may result in hiring consultants instead of FTEs if this is a more cost effective approach to address the requirements of the proposal.

#Oversight notes that proposed section 386.390 is substantially similar, but not identical, to part of Perfected HS for HCS for HB's 404, 324, 403, 344, 426 and 541 from the 2003 session of the General Assembly. (There was no deadline for filing applications requesting prudence determinations in last year's proposal.) **The Oversight Subcommittee voted, on April 29, 2003, that the number of positions required to implement that proposal would be .5 FTE for the Office of Public Counsel and a range of 2.5 to 7.5 FTE for the Public Service Commission, with commensurate Fringe Benefits and Expense and Equipment.**

Oversight assumes the Public Service Commission would adjust assessments against regulated utilities to offset increased costs due to this proposal; however, the amount of assessment against regulated utilities is limited to one-fourth of 1 percent (.0025) of gross intrastate operating revenues of all utilities under PSC jurisdiction. If assessments are insufficient to cover PSC costs, then the PSC would have to seek an increase in the amount which may be assessed or seek funding for the PSC from different sources.

<u>FISCAL IMPACT - State Government</u>	FY 2005 (10 Mo.)	FY 2006	FY 2007
GENERAL REVENUE FUND			
<u># Cost</u> - Office of Public Counsel			
Personal Service (0.5 FTE)	(\$21,170)	(\$21,713)	(\$22,256)
Fringe Benefits	(\$8,764)	(\$8,989)	(\$9,214)
Expense and Equipment	<u>(\$4,657)</u>	<u>(\$1,640)</u>	<u>(\$1,640)</u>
Total Cost - OPC	<u>(\$34,591)</u>	<u>(\$32,342)</u>	<u>(\$33,110)</u>
#ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	<u>(\$34,591)</u>	<u>(\$32,342)</u>	<u>(\$33,110)</u>
PUBLIC SERVICE COMMISSION FUND			
<u># Income</u> - Increased Assessments on Regulated Utilities	\$174,916 to \$383,749	\$215,283 to \$472,307	\$219,789 to \$482,407
<u># Cost</u> - Public Service Commission			
Personal Service (2.75 to 7.75 FTE)	(\$103,575 to \$232,134)	(\$127,478 to \$285,703)	(\$130,665 to \$292,846)
Fringe Benefits	(\$42,880 to \$96,103)	(\$52,776 to \$118,281)	(\$54,095 to \$121,238)
Expense & Equipment	<u>(\$28,461 to \$55,512)</u>	<u>(\$35,029 to 68,323)</u>	<u>(\$35,029 to \$68,323)</u>
Total Cost - PSC	<u>(\$174,916 to \$383,749)</u>	<u>(\$215,283 to \$472,307)</u>	<u>(\$219,789 to \$482,407)</u>
ESTIMATED NET EFFECT ON PUBLIC SERVICE COMMISSION FUND	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
<u>FISCAL IMPACT - Local Government</u>	FY 2005 (10 Mo.)	FY 2006	FY 2007
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

Small businesses served by these natural gas, water and electric corporations could see their rates increase as a result of this proposal.

DESCRIPTION

SECTION 247.085

The board of directors of any public water supply district shall have power to sell and convey part or all of the property of the district to any city, owning and operating a waterwork system, in consideration whereof the city shall obligate itself to pay or assume the payment of all outstanding bond obligations of the district, and to provide reasonable and adequate water service.

SECTION 247.712 & 394.312

Current law requires that territorial agreements specify the boundaries of the water service area of each water supplier and the electric service area of each electric service supplier. In cases where the parties cannot agree, they may petition the Missouri Public Service Commission to designate the boundaries of the service areas to be served by each party. This proposal clarifies that the PSC can only be petitioned when the parties cannot agree upon the boundaries of the service areas that are not specified in the agreement.

Current law states that the PSC must hold an evidentiary hearing when receiving any petition, when determining whether or not a territorial agreement should become effective, and when complaints involving any PSC-approved territorial agreement are presented. The proposal states that these hearings can be waived if the matter is resolved by a stipulation and an agreement that is submitted to the PSC. All parties must agree to waive the hearing.

SECTION 386.390

Maintains the twenty-five signature requirement for a rate complaint, however adds language that clarifies those signatures shall come from twenty-five residential consumers or five large industrial customers as the term is defined within this section.

Any overearnings complaints heard by the PSC shall be decided within eleven months.

DESCRIPTION (continued)

SECTION 393.156

As part of a pilot program to be conducted by the PSC, this proposal allows any electrical corporation proposing to invest more than ten percent of its net utility plant in any new generation plant may file with the PSC an application requesting a predetermination of prudence on the decision to construct. The PSC may in its discretion consider an application proposing to enter into a contract for the purchase of power and energy not associated with a new generation plant. The company may also request, as part of the same application, that the PSC determine rate making principles that will be applied to the cost of such infrastructure in future proceedings before the commission. The application may include, at the option of the corporation, a request for a certificate of convenience and necessity under Section 393.170 RSMo.

At the time the application is filed, the corporation shall file all evidence supporting its proposed course of action as well as proposed confidentiality agreements and identify all material for a which a need for confidentiality is asserted. If any proposed generation facility is not to be located within the state, the corporation shall also submit evidence that the location of the facility or the contract is in the best interest of Missouri ratepayers.

Under this proposal, the PSC shall establish guidelines for the submission of the application. The PSC shall conduct a hearing and issue an order within one hundred and eighty days after the filing of an application. The PSC may approve the application as proposed by the corporation, on the basis of conditions required to be accepted by the corporation, or may reject the application. If, after a hearing and consequent order, the PSC determines that the proposed investment is reasonable and prudent, the commission may impose monitoring and reporting conditions on the company responsible. Costs shall be included in the company's rates only in accordance with existing law, except as provided in subsection 6 of the section. Nothing in this proposal alters the PSC's authority to set the rates or to review the prudence of construction management for the company in question.

The order by the PSC approving, modifying, or rejecting the determination of prudence and addressing rate making principles will be applied in any future rate case to the investment and costs of the facility or contract and shall be binding for rate making purposes in all future proceedings. Rate making principles may include but shall not be limited to, capital structure to finance the facility, estimated service life, depreciation rate for cost of service purposes, and authorized return on equity.

If the PSC fails to issue an order within one hundred and eighty days, any certificate for

DESCRIPTION (continued)

convenience and necessity and any rate making principles requested by the corporation in the application shall be deemed approved by the PSC.

A corporation shall have two hundred seventy days after the effective date of a prudency order to notify the PSC whether it will proceed with the proposed project identified in the application. If the corporation notifies the PSC that it will not proceed with the proposed project, any rate making principles included in the order will be of no further force and effect and there shall be no adverse presumption applied to the corporation in any future proceeding before the PSC.

The corporation shall report to the PSC at the times specified in the order or upon the occurrence of any unusual event which may individually, collectively, materially and adversely affect the project for which a certificate has been issued. At the time of such a report, the corporation or the PSC may consider a modification or termination of the project.

In the event that the PSC, after hearing, determines the continuation of the project is no longer prudent or should be modified, the PSC in its discretion may allow the corporation to recover in rates, the amounts already expensed, incurred, or obligated on such project. These costs will be amortized to expenses over a period of years and in a manner to be determined by the PSC at the time the application is initially approved or when the order to modify or terminate the project is issued.

No company shall file more than one application covering more than one project in a twelve month period, excluding circumstances when an application has been denied, dismissed, or approved but not entered into - a company can file a new application for the same or an alternative project at any time. Such limitations can be waived by the PSC if the waiver is found to be in the public interest.

Nothing in this proposal shall excuse a corporation from complying with its public service obligation to provide safe and adequate service at just and reasonable rates.

No application shall be filed under this section after June 15, 2006. No application may be filed under this section by a utility subject to a rate moratorium.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

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SOURCES OF INFORMATION

Department of Economic Development
Office of Public Counsel
Public Service Commission
Department of Natural Resources

A handwritten signature in black ink that reads "Mickey Wilson". The signature is written in a cursive, flowing style.

Mickey Wilson, CPA
Director
April 29, 2004