

HCS HB 1100 & 1241 -- UTILITIES

SPONSOR: Rector

COMMITTEE ACTION: Voted "do pass" by the Committee on Communications, Energy and Technology by a vote of 17 to 4.

This substitute allows any electrical corporation to recover all of the prudently incurred costs for fuel delivered to its generating stations and for the variable cost component of purchased electrical energy for its retail customers. The company will use an energy cost adjustment schedule to determine how these costs will be recovered. All energy cost adjustment schedules must be filed with the Missouri Public Service Commission for consideration. The commission will establish a procedure to remedy any over-collections or under-collections from previous adjustment periods. The schedule can be modified every 90 days to accurately reflect fuel and energy cost fluctuations.

The substitute allows any electrical, gas, or water corporation to request the commission to evaluate a project proposal to determine whether or not it is prudent. Utility corporations requesting a determination must also submit a cost projection for the project. The substitute explains the types of proposals that can be submitted, applicable time frames, and the application's requirements.

The commission must conduct a hearing and issue an order within 180 days. If the commission determines that a proposed project and its cost projection is prudent, it will issue an order and certificate and address all ratemaking principles requested by the corporation. The order and the statements regarding ratemaking principles will be applied in any future rate case to the investment and costs of the facility or contract and will be binding in all future proceedings.

If the commission fails to issue a decision regarding an application, the project in question will be deemed to be prudent 180 days from the date on which the complete application was submitted. The corporation will have 270 days after the effective date of the prudency order to notify the commission about whether or not it will go ahead with the proposed project. If the corporation decides not to proceed, any ratemaking principles included in the order will be void and no adverse presumptions will be applied to the corporation in any future proceedings before the commission.

The corporation must report to the commission at the specified times in the order and when any significant or unusual event

occurs. At any time prior to the completion of a project, the commission may require the corporation to present evidence supporting the decision to continue a project. If the commission determines that continuation of the project is no longer prudent or should be modified, the corporation will be allowed to recover in rates the amounts already expended, incurred, or obligated on the project, even though the project may never be fully operational or used for service. The corporation will be able to recover by increases in rates all costs deemed to be prudent by the commission. Any cost in excess of the cost projection will be presumed imprudent and not recoverable, unless the commission determines that the excess cost was prudent, in which case the excess costs would be recoverable through rate increases.

No corporation may file more than one application related to a single project during a 12-month period.

FISCAL NOTE: Not available at time of printing.

PROPOSERS: Supporters say that Missouri is one of only three states that does not allow fuel adjustments. Fuel adjustment procedures are the rule, not the exception, and investors look favorably upon the procedures because they lower risks. The bill requires a rate case to be heard before the Missouri Public Service Commission before a fuel adjustment clause can be implemented. If a utility has a fuel adjustment clause, it must have a rate case every three years so that rates and the baseline can be reset. The commission has the power to make rules regarding incentive programs that will ensure that the utilities continue to get the best deal on fuel, so that customers pay the lowest cost. The bill has more consumer protection provisions than fuel adjustment laws in other states. It is a balanced and fair bill which will not raise customers' rates. Currently, utilities guess at what the rate will be, and the rate is fixed. A fuel adjustment clause means that the customer will pay no more or no less than what they fairly owe. Currently, an investor-owned utility examines its needs and determines if it should build a new facility. The utility takes on all of the risks. After the facility is built and becomes operational, the utility can ask the commission whether or not the decision was prudent. The commission can say the decision was not prudent which hurts the utility's credit. The bill requires the commission to determine whether or not the project is prudent early in the process, before construction begins. This will make it easier for the utility to obtain financing for the project, because potential investors will know in advance that the commission has approved it. Because the investors' perceived risk is lower, the cost of financing the debt will also be lower. This results in a less expensive project.

Testifying for the bill were Representative Rector; LS Power; Empire Electric District; Aquila; Ameren UE; Kansas City Power and Light; Missouri Gas Energy; Missouri Energy Development Association; Great Plains Energy; and Laclede Gas.

OPPONENTS: Those who oppose the bill say that the bill will increase rates and the rate changes will be volatile. The bill does not provide incentives for prudent energy purchasing. The incentives that have been in place will be removed. Investors and utility companies may approve of fuel adjustment clauses, but might not be in the best interest of consumers. That balance must be met through regulation. Requiring the commission to determine whether or not a utility's proposed project is prudent before it is completed shifts the risk from the utility company to the consumers, which is wrong and removes the utility's incentive to operate efficiently and responsibly.

Testifying against the bills were Ford Motor Company; American Association of Retired People; Office of Public Counsel; Missouri Energy Group; and Bryan and Cave Law Firm.

Alice Hurley, Legislative Analyst