

HCS HB 2279 -- UTILITY REGULATIONS AND SALES OF SCRAP METAL

SPONSOR: Emery (Wright, 159)

COMMITTEE ACTION: Voted "do pass" by the Special Committee on Utilities by a vote of 6 to 5.

This substitute changes the laws regarding utility regulations and the sale of scrap metal. In its main provisions, the substitute:

(1) Authorizes the Missouri Public Service Commission to grant approval, which will have the same effect as approval granted prior to construction of an electric generating facility, to an existing electric generating facility if the commission determines that the approval is necessary or convenient for the public service. The power to grant this retroactive approval expires on August 28, 2009. Upon enactment of the substitute, the commission will be required to hold public hearings before approving the construction of future electric generating facilities and consider county zoning and planning requirements in its decisions. The commission must publish findings showing that it has complied with these requirements prior to approving the construction of an electric generating facility;

(2) Requires purchased gas adjustment rates to include the gas cost portion of net write-offs incurred by a gas corporation in providing service to its customers as part of rate adjustments in the purchase price of natural gas approved by the commission. These write-offs will not count as tariff increases for the purpose of the gas corporation's revenue notification requirements to cities and counties in Section 393.275, RSMo. The requirement of holding a general rate proceeding every three years in order to maintain or obtain commission approval of an Infrastructure System Replacement Surcharge will be extended to five years;

(3) Requires purchasers of scrap metal to keep a record of each transaction including a copy of a federal or state-issued form of identification from the seller, the date and time of delivery, and a description and weight of all metals purchased. Scrap metal includes any aluminum, copper, brass, or bronze wire; cable; pipe; tubing; bar; ingots; rod; fitting; fastener; or farming material. Records are required to be kept for a minimum of 24 months and must be available for inspection by law enforcement. Any person violating this provision will be guilty of a class A misdemeanor. Transactions not exceeding \$50 or transactions between scrap metal dealers with fixed business locations are exempt from the record-keeping requirement;

(4) Requires scrap metal dealers to make any payment over \$50 by check, electronic transfer, or any other method in which a financial institution maintains a record of the transaction;

(5) Prohibits scrap metal dealers from purchasing metal beer kegs of six gallons or more unless purchasing them from the brewer or its representative. Any person violating this provision will be guilty of a class A misdemeanor;

(6) Prohibits scrap metal dealers from purchasing items such as manhole covers, street signs, bleachers, or guardrails that are identifiable as belonging to a political subdivision, electric cooperative, or utility. Any person violating this section will be guilty of a class B misdemeanor;

(7) Specifies that any person who steals or appropriates wire or other devices that are associated with transmitting telecommunications or conducting electricity will be guilty of a class C felony;

(8) Specifies that any person who steals or appropriates any property on the premises of an electric cooperative or municipal utility or utility regulated by the commission will be guilty of a class D felony;

(9) Allows electric suppliers to trim, remove, and control trees and vegetation that threaten the safe and reliable operation of electrical service. Permissible distances from power lines for removing trees are specified based on the voltage of the power line. Any tree that actually threatens the power supply may be trimmed or removed after a 14-day notice to the owner even if the tree is not within the recommended distance guidelines unless the electric supplier determines that removal of the tree is immediately necessary or the electric supplier is trimming or removing trees following a major weather event or other emergency situation. If any tree which is trimmed by an electric supplier dies within three months as a result of the trimming, the owner may request in writing that the electric supplier remove the tree at the supplier's expense. The electric supplier must respond to the request within 90 days;

(10) Creates penalties for corporations, persons, and public utilities that violate any law, order, decision, decree, rule, direction, demand, or requirement of the commission relating to federally mandated natural gas safety standards. Municipalities that own gas plants are only liable for violations of natural gas safety laws, rules, and orders. The maximum penalty per violation will be \$15,000, and the maximum penalty for multiple violations or a continuing violation of the same rule will be \$150,000; beginning January 1, 2015, the maximum penalties will

be \$20,000 and \$200,000; beginning January 1, 2025, the maximum penalties will be \$25,000 and \$250,000; beginning January 1, 2035, the maximum penalties will be \$30,000 and \$300,000; and beginning January 1, 2040, the maximum penalties will be \$40,000 and \$400,000. In determining penalty amounts, the commission may consider the degree of culpability, prior violations, the effect of the penalty on operations, good faith efforts at compliance, ability to pay, and any other matters deemed relevant. The acts and omissions of officers, agents, and employees of any corporation, person, public utility, or other owner of a gas plant will be considered the acts or omissions of the gas plant owner; and

(11) Requires a regional electric cooperative that provides service to two or more municipalities within Missouri to allow the municipalities to appoint at least four members to its governing board. Appointments will be made by majority vote of the mayors of the municipalities served by the cooperative, and the individuals appointed will have the same rights and benefits as other members of the board and be subject to Section 394.160. The provisions of the substitute may be enforced by an injunction prohibiting any regional electric cooperative who fails to comply with any of the requirements of the substitute from operating within Missouri.

FISCAL NOTE: Estimated Cost on General Revenue Fund of \$0 to Unknown - Less than \$100,000 in FY 2009, FY 2010, and FY 2011. Estimated Income on Other State Funds of \$0 to Unknown in FY 2009, \$0 in FY 2010, and \$0 in FY 2011.

PROPOSERS: Supporters say that the bill will eliminate unnecessary rate cases by allowing Infrastructure System Replacement Surcharges to remain in place for five years without a rate case instead of the current standard of three years. Bad debt may be treated as a cost of providing gas and recovered by gas utilities.

Testifying for the bill were Representative Wright (159); Missouri Energy Development Association; Missouri Gas Energy; Laclede Gas Company; AmerenUE; and Empire District Electric Company.

OPPOSERS: Those who oppose the bill say that the surcharges allow companies to increase their rates without a full financial review and may lead to overcharging consumers. It is best to have general rate cases every three years to monitor the situation.

Testifying against the bill were Office of Public Counsel; AARP-Missouri; Consumers Council of Missouri; and Office of the

Attorney General.

OTHERS: Others testifying on the bill say that utilities have not been able to provide actual figures for bad debt and that rough estimates may not be sufficient to implement the legislation.

Testifying on the bill was Missouri Public Service Commission.