

CCS HCS SB 48 -- UTILITIES

This bill changes the laws regarding utilities. In its main provisions, the bill:

(1) Removes the certified mail requirement for a notice regarding the disconnection of service for the nonpayment of sewer service charges. Currently, any municipality, sewer corporation, or sewer district that contracts with a water company to terminate water service to customer premises for nonpayment of sewer bills is required to send the notice of termination of water service by certified mail (Sections 250.236 and 393.015, RSMo);

(2) Requires an appeal of a Missouri Public Service Commission order or decision to be heard in the appellate court instead of the circuit court and changes the appellate procedures by:

(a) Requiring the commission in any proceeding resulting in the establishment of new rates for certain public utilities to cause to be prepared and approve, after allowing the parties a reasonable opportunity to provide written input, a detailed reconciliation containing the dollar value and rate or charge impact of each contested issue decided by the commission and the customer class billing determinate used by the commission;

(b) Allowing a notice of a commission order affecting a person or corporation to be provided by electronic service in addition to the current options of personal delivery or prepaid mail to the individuals or, in the case of a corporation, to any officer or agent upon whom a summons may be served in accordance with provisions of the code of civil procedure and removing the provision which requires a person or corporation who is served a certified copy of a commission order to notify the commission of its receipt;

(c) Specifying that an appellant may file a notice of appeal with the commission and the appropriate appellate court within 30 days after a request for a rehearing is denied or a final decision on rehearing is made for a commission order or decision issued on or after the effective date of these provisions. The bill specifies the information which must be included with the notice of appeal. Currently, the appellant may apply to the appropriate circuit court within 30 days after the rehearing is denied or the final decision on the rehearing is made;

(d) Requiring the commission to certify its record in the case to the court of appeals within 30 days of the filing of the notice of appeal unless otherwise ordered by the court of appeals;

(e) Specifying that the commission and any party to a commission action or proceeding must have the right to intervene and participate fully in the review proceedings;

(f) Requiring the court of appeals, upon the submission of a case, to render its opinion affirming or setting aside, in whole or in part, the order or decision of the commission under review;

(g) Allowing an appellate court to stay or suspend the operation of a commission order or decision, in whole or in part, that does not involve the establishment of new rates and charges for a public utility if the court determines that great or irreparable damage would otherwise result to the appellant. No stay or suspension of a commission's order or decision will be issued for orders or decisions involving new rates or charges for public utilities that are not classified as price-cap or competitive companies; however, temporary rate adjustments may be allowed. An appellate court may require the commission to provide temporary rate adjustments in a case where the court determines that a commission order or decision unlawful or unreasonably decided an issue in a manner affecting rates. The requirements for calculating a temporary rate adjustment based on the type of deviation from lawful or reasonable rates are specified in the bill;

(h) Specifying that no action affecting a public utility's collection of rates and charges can be taken in a case where the appellate court cannot make a determination because the commission failed to include adequate findings of fact to support the commission's decision or failed to receive properly offered evidence and requiring the commission to provide the findings of fact to support its decision or issue a new order within 90 days of the court-issued mandate; and

(i) Allowing the commission and any party that is aggrieved by the opinion of an appellate court to seek a rehearing or a transfer to the Missouri Supreme Court under rules established by the court and removing the provision which requires a \$500 bond be filed within 10 days after a judgment has been entered in a circuit court in order to file an appeal with the Missouri Supreme Court or a court of appeals (Sections 386.420, 386.490, and 386.510 - 386.540);

(3) Prohibits any public utility regulated under Chapter 393 from requiring a deposit or guarantee as a condition of continued residential service to any existing customer who has been delinquent in paying his or her utility bill at least five times in 12 consecutive months if the customer has consistently made a payment by the delinquent date each month during the 12 consecutive months and the payment is at least \$75 or 25% of the

outstanding balance if the total outstanding balance is \$300 or less. These provisions do not apply to a customer who owes more than \$300 or who has a previously established payment plan with the utility (Section 393.152); and

(4) Allows an owner of a park consisting of at least 50 contiguous acres in which the property is subject to remediation under a clean-up program supervised by the Department of Natural Resources or the United States Environmental Protection Agency to submit an application to the Department of Economic Development to establish a cleanfields renewable energy demonstration project. The department must review all project applications and, in consultation with the Department of Natural Resources, verify satisfaction of all requirements. If the Department of Economic Development approves a project application, it must forward the application and approval to the Missouri Public Service Commission. Upon receipt of the application and approval, the commission must assign double credit to any electric power, renewable energy, renewable energy credits, or any successor credit generated from certain renewable energy resources or certain electric power generated off-site by utilizing biomass fuel or renewable energy resources (Section 620.2300).

The bill contains an emergency clause for certain provisions regarding the appeal of an issue initially decided by the Missouri Public Service Commission and for the provisions regarding cleanfields renewable energy demonstration projects.