

SS SCS SB 756 -- UTILITIES

SPONSOR: White (O'Donnell)

COMMITTEE ACTION: Voted "Do Pass" by the Standing Committee on Financial Institutions by a vote of 11 to 4. Voted "Do Pass" by the Standing Committee on Rules- Administrative Oversight by a vote of 8 to 3.

This bill modifies provisions relating to public utilities.

STATE PURCHASING (Section 34.045, RSMo)

The Commissioner of Administration shall waive the requirement of competitive bids or proposals for the contracting of legal counsel, financial advisors, and other consultants as necessary to effectuate the purposes of a provision of law relating to financing orders for utilities.

DISASTER PREPAREDNESS (Section 44.032)

The bill adds rural electric cooperatives to the agencies and organizations for which the Governor may expend funds from the Missouri Disaster Fund in the event of an emergency or disaster .

SALES TAX (Sections 144.010, 144.011, and 144.030)

The bill exempts from the definition of "retail sale" or "sale at retail" for the purposes of sales tax law the purchase by persons operating hotels, motels, or other transient accommodation establishments of certain utilities, which are used to heat, cool, or provide water or power to the guests' accommodations, as specified in the bill, and which are included in the charge made for the accommodations. Any person required to remit sales tax on these purchases prior to August 28, 2022, is entitled to a refund on such taxes.

The bill also authorizes a sales tax exemption for all purchases by a Missouri company of solar photovoltaic energy equipment used to construct a solar photovoltaic energy system and all purchases of materials and supplies used directly to construct or make improvements to such systems, provided that such systems allow for energy storage, include advanced or smart meter inverter capacity, or allow for utility scale projects greater than 20 megawatts .

RATE ADJUSTMENTS OUTSIDE OF GENERAL RATE PROCEEDINGS (Section 386.266)

Currently, an electrical corporation may apply to the Public Service Commission to approve rate schedules authorizing periodic

rate adjustments outside of general rate proceedings due to changes in customer usage due to weather and conservation or to defer and recover certain depreciation expense and return for qualifying electric plant recorded to plant-in-service on the utility's books, but an electrical corporation cannot elect to do both.

This bill allows an electrical corporation to make one application to the Commission to either approve rate schedules authorizing periodic rate adjustments outside of general rate proceedings or to defer and recover certain depreciation expense and return for qualifying electric plant recorded to plant-in-service on the utility's books if the corporation has provided notice to the Commission to elect the opposite option. However, the corporation may not concurrently utilize electric rate adjustments and the deferrals.

NET METERING (Sections 386.885 and 386.890)

The bill establishes the "Task Force on Distributed Energy Resources and Net Metering", to conduct hearings and research information related to net metering as specified in the bill. The membership of the Task Force shall include but not be limited to: Two members of the Senate, with one appointed by the President Pro Tem and one appointed by the Minority Floor Leader; two members of the House of Representatives, with one appointed by the Speaker and one appointed by the Minority Floor Leader; a representative from each of the three segments of the retail electric energy industry, appointed by the President Pro Tem of the Senate. The Task Force shall submit a report to the General Assembly by December 31, 2023. The Task Force shall dissolve on December 31, 2023, or when the Task Force concludes its work, whichever is sooner.

The bill modifies the definitions of "department", which is changed from the Department of Economic Development to the Department of Natural Resources, and "retail electric supplier", to include municipally-owned utilities.

The sale of qualified electric energy units to any customer-generator shall be subject to provisions of law related to consumer protection.

TASK FORCE ON TAXATION OF SOLAR ENERGY SYSTEMS (Section 393.1072)

The bill establishes the "Task Force on Fair, Nondiscriminatory Local Taxation Concerning Solar Energy Systems". The Task Force is to be composed of three members each from the House of Representatives and Senate with no more than two members of the same political party, two elected county assessors with one appointed by the President Pro Tem of the Senate and one by the

Speaker of the House of Representatives, two representatives of the Missouri State Tax Commission, two representatives of a state-wide agricultural organization with one appointed by the Speaker of the House of Representatives and one appointed by the President Pro Tem of the Senate, and three members from the private sector with experience in utility-scale solar energy development and operation with one each appointed by the Speaker of the House of Representatives, the President Pro Tem of the Senate, and the Governor.

The Task Force shall conduct public hearings and research as specified in the bill and compile a report to be delivered to the General Assembly no later than December 31, 2022.

The Task Force will sunset on December 31, 2022.

ACCOUNTING PRACTICES OF CERTAIN UTILITIES

Electrical, gas, sewer, and water corporations must defer to a regulatory asset or liability account any difference in state or local property tax expenses actually incurred, and those on which the revenue requirement used to set rates in the corporation's most recently completed general rate proceeding were based. The regulatory asset or liability account balances must be included in the revenue requirement used to set rates through an amortization over a reasonable period of time in such corporation's subsequent general rate proceedings (Section 393.1275).

PLANT-IN-SERVICE ACCOUNTING (Section 393.1400)

The bill modifies the definition of "weighted average cost of capital" for a provision relating to plant-in-service accounting.

Currently, an electrical corporation may elect to defer depreciation expenses until December 31, 2023, or if approved by the Public Service Commission, continue to make such deferrals from January 1, 2024, through December 31, 2028. This bill specifies that an electrical corporation may seek permission to continue to make such deferrals for an additional five years beyond December 31, 2028, by filing an application with the Commission seeking such permission by December 31, 2026. The Commission must rule on the application within 180 days after its filing.

The Commission must make the determination of whether to grant such permission to continue after a hearing.

Failure to obtain Commission permission to continue will not affect deferrals made through the date for which permission has been granted, or the regulatory and ratemaking treatment of the

regulatory assets arising from the deferrals.

The Commission may take into account any change in business risk to the electrical corporation resulting from implementation of the deferrals in setting the corporation's allowed return in any rate proceeding, in addition to any other changes in business risk experienced by the corporation.

CAPITAL INVESTMENT PLAN (Section 393.1400)

For each project in the specific capital investment plan on which construction begins on or after January 1st of the year in which the plan is submitted, and where the cost of the project is estimated to exceed \$20 million, the electrical corporation must identify all costs and benefits that can be quantitatively evaluated.

If a cost or benefit cannot be quantitatively evaluated, the corporation must state the reasons why, and how the corporation addresses such costs and benefits when reviewing and deciding to pursue a project.

No project may be based solely on costs and benefits that cannot be quantitatively evaluated, and any quantification for such a project must be accompanied by additional justification in support of the project.

In its report to the Commission on Capital Investments, an electrical corporation must include information on the quantitatively evaluated costs and benefits generated by each of those investments that exceeded \$20 million and any efficiencies achieved as a result of those investments.

DISCOUNTED ELECTRIC RATES (Section 393.1640)

The bill changes the criteria for electric customers to be considered for a discounted electric rate. In order to obtain one of the discounts established in the bill, the customer's load must be incremental, the customer must receive an economic development incentive from the local, regional, state, or federal government, and the customer must meet criteria set forth in the electrical corporation's economic development rider tariff sheet. The electrical corporation must verify the customer's incremental demand annually to determine continued qualification for the applicable discount.

In each general rate proceeding concluded after August 28, 2022, the difference in revenues generated by applying the discounted rates and the revenue that would have been generated without such

discounts shall not be imputed into the electrical corporation's revenue requirement but instead such revenue requirement is to be set as provided for in the bill.

REVENUE REQUIREMENT (Section 393.1656)

Beginning January 1, 2024, that part of an electrical corporation's retail revenue requirement used to set the electrical corporation's base rates in each of the electrical corporation's general rate proceedings that are concluded on or after August 31, 2023, that consists of revenue requirement arising from inclusion in rate base of certain regulatory asset balances can not exceed the revenue requirement impact cap. If inclusion of the full balance would cause the electrical corporation to exceed the revenue requirement impact cap, the part of the balance necessary to prevent the exceedance will not be included in rate base and the regulatory asset balance will be reduced accordingly as penalty.

FINANCING ORDERS (Section 393.1700)

The bill allows the Public Service Commission to directly contract counsel, financial advisors, or other consultants as necessary to carry out the Commission's duties related to financing orders.

RESTRICTIVE COVENANTS - RENEWABLE ENERGY (Section 442.404)

This bill specifies that no deed restriction, covenant, or similar binding agreement running with the land shall limit or prohibit the installation of solar panels or solar collectors, as defined in the bill, on the rooftop of any property or structure.

A homeowners' association may adopt reasonable rules regarding the placement of solar panels or solar collectors to the extent those rules do not prevent the installation of the device or adversely affect its functioning, use, cost, or efficiency.

These provisions shall apply only with regard to rooftops that are owned, controlled, and maintained by the owner of the individual property or structure.

SUNSHINE LAW (Section 610.021)

This bill adds individually identifiable customer usage and billing records for customers of municipally owned utilities to the list of records that are exempt from disclosure under the Sunshine Law, except that a municipally owned utility must make available the customer's name, billing address, location of service and dates of service for a commercial service account.

Section 442.404 of this bill has a delayed effective date of

January 1, 2023.

The following is a summary of the public testimony from the committee hearing. The testimony was based on the Senate perfected bill.

PROPONENTS: Supporters say that this bill will help utilities with grid modernization and resiliency. The bill will also boost economic incentives for commercial users, which leads to economic development in the state. Supporters also approve of provisions in the bill that would allow the Commission to track the property taxes between rate cases and to consider the changes in taxes when setting rates since changes in property taxes are not in the control of the utility company. For more than 20 years, lodging establishments were not taxed on the utilities used for business, but due to a recent court ruling, the department changed its policy. The bill would also clarify that utilities for lodging establishments are not taxes since the guest pays the taxes.

Testifying for the bill were Senator White; City Utilities of Springfield; Associated Industries of Missouri; Evergy; Missouri Public Utility Alliance; Missouri American Water; Clean Grid Alliance; Missouri Hotel and Lodging Association; Missouri Chamber of Commerce and Industry; Spire Missouri; Liberty Utilities; Missouri Solar Energy Industry Association; Missouri Energy Development Association; and Ameren Missouri.

OPPONENTS: Those who oppose the bill say that the provisions relating to restrictive covenants would allow homeowners to construct solar panels in any manner the homeowner would prefer, regardless of the restrictive covenants.

Testifying against the bill was the Community Association Institute.

OTHERS: Others testifying on the bill submitted written testimony.

Written testimony has been submitted for this bill. The full written testimony can be found under Testimony on the bill page on the House website.