

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0304-09
Bill No.: SCS for SBs 125 & 290
Subject: Public Service Commission; Utilities; Water Resources and Water Districts
Type: Original
Date: March 10, 2003

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2004	FY 2005	FY 2006
General Revenue	(\$310,693)	(\$329,605)	(\$335,853)
Total Estimated Net Effect on General Revenue Fund	(\$310,693)	(\$329,605)	(\$335,853)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2004	FY 2005	FY 2006
Public Service Commission*	\$0	\$0	\$0
Total Estimated Net Effect on Other State Funds	\$0	\$0	\$0

*Assumes costs to the Fund of \$858,668, \$942,254, and \$966,478 and offsetting increases in assessments against regulated utilities in the next three fiscal years.

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 11 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2004	FY 2005	FY 2006
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2004	FY 2005	FY 2006
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Economic Development, Office of Public Counsel (OPC)** assume Section 393.1009 through 393.1015 of this proposed legislation would significantly increase the work load associated with the review of natural gas company investments and expenses for the five major natural gas utilities (three having multiple operating divisions with separate tariffs). This bill would provide for, on a stand-alone basis, semi-annual reviews and investigations of various investments in plant in service and related expenses along with investments and investment related expenses in security measures and direct expenses for security measures. These investigations are normally performed during rate cases whose frequency ranges from once a year to up to once every seven to ten years depending on the utility involved. OPC does not currently have sufficient resources to take on these additional tasks.

Sections 393.1000 through 393.1007 would allow a water corporation to request large increases in water rates from the Public Service Commission within a short time frame. The Office of the Public Counsel would have a duty to conduct a detailed analysis in any case based upon such requests. The bill provides for charges related to infrastructure main replacements for water corporations outside the normal rate case procedures, through the addition of a surcharge to customers' bills.

ASSUMPTION (continued)

This substitute does not provide for any review of the reasonableness and prudence of costs associated with water mains for which an infrastructure replacement surcharge (ISRS) is allowed until the company files a general rate increase case, or if the ISRS surcharge exceeds 10% of base revenue. At such time OPC would anticipate the need to review the prudence of the costs incurred relating to the water main replacements and the associated planning process would occur in the general rate proceeding.

In the past, OPC has filed extensive engineering testimony relating to water main replacement programs and participated in extensive negotiations and planning of how the company should address the problem. The issue of developing a systematic plan to address the decision process of when to replace water mains was first raised by OPC in the mid 1990s. OPC no longer has an engineer on staff; therefore, it would be required to either hire an engineer or retain a consultant in this field of expertise in order to provide analysis in any water rate case in which a company has implemented an ISRS surcharge. Based on past practices and current planned replacement rates, OPC would anticipate that a case containing this issue would arise at least once every other year.

In addition, imposing an ISRS would likely require OPC to investigate and audit water corporations that impose such surcharges to ensure that corresponding decreases in other costs are recognized in rates. This will shift the burden to consumers to prove in earnings complaint cases that rates need to be reduced to reasonable levels. There is a potential for complex issues to develop in these cases involving the interplay of the single-issue ISRS increases and general water rate issues. OPC anticipates being able to address these issues with current accounting expertise; however, the nature and frequency of these issues could strain current resources and require further fiscal impacts in the future.

Section 393.1018.1 would create an additional procedure for electric, gas, and water utilities to request rate increases for "security measures". OPC anticipates that it would need to participate in 18 additional cases before the PSC per year. This is based on the assumption that there would be one case per year for each regulated electric company (5), each natural gas company (9), each large water company (1), and approximately three (3) of the small water companies. OPC does not currently have sufficient resources to handle this additional workload.

Section 393.1018.2 would create an additional procedure for an electric company to request an increase in rates for the relocation of facilities. OPC anticipates that it would need to participate in 5 additional cases per year before the PSC (one case per year per regulated electric company).

ASSUMPTION (continued)

Both additional procedures created by Section 393.1018.1 and 393.1018.2 would be expedited procedures that create an extra burden on the small staff of the Office of the Public Counsel.

The Office of the Public Counsel would require five additional FTEs (accountant, engineer, economist, attorney and support staff person) as a result of the annual duties created by this legislation. In addition, OPC would need to retain the specialized expertise of outside consultants to provide input in the area of reasonable and prudent security measures and costs. OPC anticipates the need to perform approximately four additional general rate investigations per year along with resulting complaint cases (two electric, two natural gas and one water). OPC would therefore also require approximately \$80,000 in consulting expenses to perform these audits and investigations of the overall cost of service, this being the most economical method of addressing this need.

As to space and accommodations for the 5 new employees within the Office of Public Counsel, current workspace would have to be reorganized. Cubicles and furnishings would need to be furnished for new technical and legal personnel. A cubicle already exists for the clerical position. Also necessary equipment would include five computers, an additional printer and copy machine.

The Public Utility Accountant I would be needed to collect, correlate, and verify the additional data associated with the various filings allowed for by the proposed bill. The accountant would have to audit the data for authenticity and perform reviews of the annual reports upon which this bill requires reliance. This bill allows for a maximum of 23 filings per year by the utilities. In addition, an annual review is required to true-up the actual results to the budgeted data used in determination of the initial ISRS charge. Additional filings could result from a multi-divisional utility choosing to file separate ISRSs for each division along with the eight smaller natural gas utilities choosing to file an ISRS under the provisions of this bill.

A Public Utility Engineer would be required to analyze the various planning and implementation procedures associated with the construction of plant in service. This position could also be utilized to coordinate and supplement testimony on the prudence of security measurers and relating to the relocation issues mentioned in Section 393.1010. In addition, the bill provides for expedited Commission review of any matter associated with questions of prudence of the plant in service. Additional outside consultants would not likely be able to respond in time to infrastructure issues, given the time periods provided for in the bill, the learning curve associated with each utilities specific circumstances, and the time period related to procuring the services of outside consultants. The number of cases an engineer would be involved in and would have to

ASSUMPTION (continued)

address would be consistent with the participation previously stated with respect to the auditor and the engineer.

A Public Utility Economist would be required to address the resulting rate design issues that arise by the mandate contained in this bill regarding the ISRS charge and the new electric rate recovery procedures. The number of cases an economist would be consistent with the participation that has been previously stated with respect to the accountant and the economist.

An Attorney (Assistant Public Counsel) would be needed to represent consumer interests and coordinate OPC evidence in the 23 additional new procedures and four additional rate complaint cases per year created by this legislation.

OPC already experiences a low support staff/professional ratio. With the addition of four full-time professional positions, our current two support staff positions would be extremely over-burdened with the additional duties the bill would create. An additional support staff position will be within the best interests of the office 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.

Officials from the **Department of Economic Development, Public Service Commission (PSC)** assume under the provisions of this bill, all electric corporations regulated by the PSC, all gas corporations regulated by the PSC and the largest water corporation regulated by the PSC (which has nine separate operating districts and district specific rate structures) would be allowed to file rate schedules for adjustments to their customer rates for the recovery of costs related to eligible infrastructure system replacements and security system upgrades between rate cases. Filings made by gas corporations and the eligible water corporation would result in billing surcharges being established, with such surcharges being eligible for adjustment two times per year and also being subject to annual reconciliation and adjustment. Such surcharges would also be subject to adjustment during general rate cases, and such cases would be required at least every three years. All initial filings made under the provisions of this bill would involve the development and review of revised utility tariff provisions, as would all subsequent rate adjustments.

Under the provisions of this bill, filings by gas corporations and the eligible water corporation would need to be responded to in terms of the accuracy of the data used to calculate the proposed billing surcharge and the accuracy of the proposed surcharge by the PSC staff within 60 days of the petition being filed. The PSC could hold hearings regarding the proposed surcharges, but would be required to issue an order such that the surcharge would become effective not later than

ASSUMPTION (continued)

120 days after the filing requesting the surcharge is made. These time limits would apparently not only apply to the initial surcharge filing, but also to any proposed surcharge adjustments and to the annual reconciliation process.

Based upon the potential use of the provisions of this bill, it is believed that this bill would result in a significant increase in the PSC's workload related to its regulated electric and gas corporations and its largest regulated water corporation. As a result, the additional FTE set out below are believed to be necessary upon passage of the bill. A description of the work responsibilities for which these additional FTE would be responsible is also set out below.

Rate and Tariff Examiner II - - One (1) FTE - - Under the direction of the Water & Sewer Department's Rate and Tariff Examination Supervisor, this FTE would be responsible for the following items: assisting in the development of the Water & Sewer Department's policies and procedures necessary to implement the provisions of this legislation; assisting the PSC's regulated water corporations in developing the necessary tariff revisions related to the establishment of requested line-item billing surcharges; reviewing filings related to the establishment of allowed surcharges and subsequent adjustments to such surcharges; assisting other staff members as needed during the staff's review of surcharge related filings; ensuring the Water & Sewer Department's timely response to surcharge related filings; preparation and presentation of testimony related to surcharge filings in hearings before the PSC; and other Water & Sewer Department work as time may permit.

Rate & Tariff Examiner II - - Two (2) FTE - - Under the direction of the Energy Department Manager, these FTE would be responsible for reviewing and responding to the petition filings from the gas corporations to implement, or change, customer rates to allow for recovery of eligible infrastructure and security charges. They would also be responsible for closely coordinating their work and observations with the auditors regarding what costs are being incurred and how rates are being impacted. These staff will be witnesses in the adjustment rate cases that are contested and taken to the PSC for a decision.

Utility Engineering Specialist II - - One (1) FTE - - Under the direction of the Water & Sewer Department's Utility Regulatory Engineering Supervisor, this FTE will be responsible for the following items: assisting in the development of the Water & Sewer Department's policies and procedures necessary to implement the provisions of this legislation; reviewing filings related to the establishment of requested line-item billing surcharges and subsequent adjustments to such surcharges; conducting necessary facility inspections related to actions taken by the regulated water corporations; assisting other staff members as needed during the staff's review of surcharge

ASSUMPTION (continued)

related filings; providing input to the Water & Sewer Department's response to surcharge related petition and tariff filings; preparation and presentation of testimony related to surcharge filings in hearings before the PSC; and other Water & Sewer Department work as time may permit.

Utility Regulatory Auditor IV - - One (1) FTE - - This FTE would report to the Manager of the Accounting Department and be responsible for the actual accounting and auditing work related to complex regulatory matters. This will involve the separation of a company's costs between the amount recovered under base rates and the amounts directly recoverable under the special adjustment surcharges provided for in this legislation. This position would be involved in field evaluations of the adequacy of company data to support costs that are being recovered through the special adjustment surcharges.

Utility Regulatory Auditor I/II/III - - Three (3) FTE - - These FTE would report to the Manager of the Accounting Department and be performing the actual accounting and auditing work related to the routine practices and procedures established by the Accounting Department to administer this program. Other Accounting Department auditors would assist this position to the extent that time requirements allow. They would be responsible for conducting the ongoing true-up and prudence audits of electric, gas and water corporation filings for adjustments to rates, audits regarding their revenue coming from the rate adjustments and the revenues found reasonable for recovery by the PSC in the subject time period. Each auditor III would be assigned a specific group of companies and would be responsible for the audits of those companies' costs and revenues for the eligible infrastructure replacements and security system upgrades.

Regulatory Law Judge - - Two (2) FTE - - These FTE would report to the Chief Regulatory Law Judge and be responsible for handling filings and hearings related to the subject proposed rate adjustments. Because the proposed bill requires the PSC to act no later than 120 days after a petition is filed, this bill will require two additional Regulatory Law Judges (RLJs). The RLJs would review pleadings, conduct pre-hearing conferences, set procedural schedules, rule on motions, perform necessary research, brief the Commissioners, preside at hearings, review briefs, and draft orders and reports and orders as necessary.

Paralegals or Legal Assistants - - Two (2) FTE - - These FTE would be required, in addition to the RLJs already identified, in order to permit the Adjudication Division to process an anticipated substantial number of new and complex cases on an accelerated timeline. Additionally, cases of this sort are typically hotly contested by OPC and numerous intervenors, resulting in many legally challenging motions that must be quickly resolved. The two Paralegals would review pleadings and suggestions, prepare summaries, conduct legal research, review

ASSUMPTION (continued)

testimony, prepare summaries, indices and cross-references, tabulate and analyze figures and calculations, and prepare simple orders and notices.

Senior General Counsel -- Two (2) FTE -- These FTE would be responsible for coordinating cases before the PSC with involved staff and representing staff in hearings before the PSC. This would include the timely processing of the rate adjustment filings and the ongoing true-up and prudency audits.

Consumer Services Specialist II -- One (1) FTE -- This FTE would be responsible for responding to customer inquiries/complaints regarding surcharges on electric, gas and water utility bills. The current natural gas PGA process results in a significant number of phone calls, especially during price spikes, and it is anticipated that these surcharge adjustments will do likewise.

Methodology:

1 Utility Eng. Specialist II @ 50% travel = 120 days x \$75/day = \$9,750
3 Rate & Tariff Examiner II @ 10% travel = 78 days x \$75/day = \$5,850
3 Utility Reg. Auditor III @ 35% travel = 273 days x \$75/day = \$20,475
1 Utility Reg. Auditor IV @ 25% travel = 65 days x \$75/day = \$4,875
2 Regulatory Law Judge @ 10% travel = 52 days x \$75/day = \$3,900
2 Senior General Counsel @ 10% travel = 52 days x \$75/day = \$3,900
2 Paralegals @ 5% travel = 26 days x \$75/day = \$1,950
1 Consumer Services Spec. I/II @ 5% travel = 13 days x \$75/day = \$975
Vehicle Expense: 50,000 miles x 33.5 cents per mile = \$16,750

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 2004 (10 Mo.)	FY 2005	FY 2006
GENERAL REVENUE			
<u>Cost - Office of Public Counsel</u>			
Personal Service (5 FTE)	(\$140,070)	(\$176,593)	(\$181,008)
Fringe Benefits	(\$56,686)	(\$71,467)	(\$73,254)
Expenses & Equipment	(\$33,937)	(\$1,545)	(\$1,591)
Consultant Exp. (Engineer)	<u>(\$80,000)</u>	<u>(\$80,000)</u>	<u>(\$80,000)</u>
Total Cost - OPC	<u>(\$310,693)</u>	<u>(\$329,605)</u>	<u>(\$335,853)</u>
ESTIMATED NET EFFECT TO GENERAL REVENUE FUND	<u>(\$310,693)</u>	<u>(\$329,605)</u>	<u>(\$335,853)</u>
 PUBLIC SERVICE COMMISSION FUND			
<u>Income - Increased Assessments on Regulated Utilities</u>			
	\$858,668	\$942,254	\$966,478
<u>Cost - Public Service Commission</u>			
Personal Service (15 FTE)	(\$456,780)	(\$575,885)	(\$590,283)
Fringe Benefits	(\$184,859)	(\$233,061)	(\$238,888)
Expenses	(\$107,854)	(\$133,308)	(\$137,307)
Equipment	<u>(\$109,175)</u>	<u>\$0</u>	<u>\$0</u>
Total Cost to Public Service Commission	<u>(\$858,668)</u>	<u>(\$942,254)</u>	<u>(\$966,478)</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 2004 (10 Mo.)	FY 2005	FY 2006
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

Water, gas and electric districts that are small businesses could be expected to have a fiscal impact as a result of this proposal. Also, small businesses served by the electric, gas and water corporations that qualify for the use of the provisions of this bill could see their rates for service vary periodically.

DESCRIPTION

This proposal allows gas, electric and water corporations to file a petition with the Public Service Commission to recover costs associated with certain infrastructure system replacements once per year. This charge is referred to as an infrastructure replacement surcharge (ISRS). The ISRS must produce at least \$1,000,000 in revenues but not in excess of 10% of the water or gas corporations' base revenue level. A company seeking approval of an ISRS must have had a general rate proceeding within the last three years to begin or continue collecting the ISRS.

Petition filing requirements for the ISRS are specified in the proposal as well as factors which may be considered by the PSC in its evaluation of the petition. The corporation is required to reconcile the revenues generated with the underlying costs of the infrastructure replacements. The PSC is given authority to promulgate rules for the implementation of these provisions.

The proposal also allows electric, gas and water corporations to recover prudent expenditures for security measures incurred after August 28, 2003. Applications for recovery of such items shall be confidential as determined by the PSC. Electric corporations may also apply to the PSC to recover unreimbursed costs for capital projects for required relocations. Such recoveries may only begin or continue if the corporation has been subject to a general rate proceeding within the past three years.

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
Public Service Commission
Office of Public Counsel

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

Mickey Wilson, CPA
Director
March 10, 2003