

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 5068-03
Bill No.: HB 2343
Subject: Energy; Environmental Protection; Utilities
Type: Original
Date: April 19, 2010

Bill Summary: This proposal allows electrical corporations to charge for services based on the costs of certain construction work in progress and establishes the Missouri Energy Security Construction Act.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
Total Estimated Net Effect on General Revenue Fund	\$0	\$0	\$0

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 9 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
Total Estimated Net Effect on FTE	0	0	0

- Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).
- Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of Administration - Division of Budget and Planning (BAP)** have reviewed this proposed legislation and assume it should not result in additional costs or savings to BAP. The proposal would allow electrical corporations to charge for services based on the costs of certain construction work in progress (CWIP) and establishes the Missouri Energy Security Construction Act.

Officials **from the Office of Administration - Administrative Hearing Commission, the State Tax Commission, and the Department of Revenue** assume this proposed legislation will have no fiscal impact on their respective agencies.

Officials from the **Office of State Courts Administrator** state this proposal will have no fiscal impact on the Courts.

According to officials from the **Office of Secretary of State (SOS)**, many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the proposal. The SOS is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. The fiscal impact for this fiscal note to the SOS for Administrative Rules is less than \$2,500.

Oversight assumes the SOS could absorb the costs of printing and distributing regulations related to this proposal. If multiple bills pass which require the printing and distribution of regulations at substantial costs, the SOS could request funding through the appropriation process. Any decisions to raise fees to defray costs would likely be made in subsequent fiscal years.

Officials from the **Department of Natural Resource** state their department would not anticipate a direct fiscal impact from this proposal.

According to officials from the **Department of Economic Development - Public Service Commission PSC**, proposed legislation modifies the construction-work-in-progress (CWIP) law for certain power plants in Missouri and creates new rate filings for construction projects related to baseload generating plants. If the investor-owned electric utilities use the provisions of this legislation, it would result in additional filings, audits, reviews, expedited rate cases and associated proceedings before the Commission.

This proposal modifies the construction-work-in-progress law for certain power plants in

ASSUMPTION (continued)

Missouri and creates new rate filings for construction projects related to baseload generating plants. If the investor-owned electric utilities use the provisions of this legislation, it would result in additional filings, audits, reviews, expedited rate cases and associated proceedings.

PSC staff considers the requested FTE to be the minimum new FTE required to fulfill the role appointed to them by the legislation. The number of FTE requested has been reduced to reflect existing Staff resources that will be used to supplement the new workload. This is a conservative estimate of the need for additional resources assuming significant support from existing staff.

It is difficult to estimate the full impact of the legislation since it is unknown how many clean baseload generating plant construction projects will be submitted to the commission in total or at any given time. In looking at the potential number of additional filings and FTE, it is necessary to consider the different provisions that the legislation contains while also considering the potential synergies between new and existing Staff.

Regulatory Law Judge - Range 32 Step K
Senior Counsel - Range 32 Step J
Legal Counsel - Range 28 Step H
Utility Engineering Specialist III - Range 32 Step J
Utility Engineer I - Range 32 Step J
Utility Regulatory Auditor III - Range 26 Step N
Utility Regulatory Auditor IV - Range 29 Step O
Utility Regulatory Auditor V - Range 32 Step N
Regulatory Economist III - Range 32 Step J

Note: The Regulatory Law Judge , Senior Counsel and Legal Counsel positions are exempt positions and classified on a range and step, but are shown here on a range and step for budget purposes.

Job Functions applicable to fiscal estimate:

Regulatory Law Judge - Responsible for overseeing case processing for the commission, conducting hearings, and issuing orders regarding intervention, protection of sensitive data, filing deadlines, conferences, final decisions, etc.

Senior Counsel - Senior staff counsel position responsible for assisting in coordinating cases before the PSC with involved technical Staff and responsible for representing Staff in hearings before the commission. This would include the timely researching, drafting, and filing of all

ASSUMPTION (continued)

Staff pleadings and timely review and processing of Staff testimony, reports and recommendations. This position also reviews the work of the Legal Counsel.

Legal Counsel - Staff counsel position responsible for assisting in coordinating cases before the PSC with involved technical Staff and responsible for representing Staff in hearings before the commission. This would include the timely researching, drafting, and filing of all Staff pleadings and timely review and processing of Staff testimony, reports and recommendations. This position reports to the Senior Counsel.

Utility Engineering Specialist III/Utility Engineer I - Responsible for auditing the engineering aspects of baseload generation facility design, modifications, and implementation. This effort would also include regular assessment of the data currently provided through the integrated resource planning process. This person would regularly serve as an expert witness in cases before the commission. This person reports to the Auditor V-Energy Department.

Utility Regulatory Auditor III/IV - Responsible for conducting comprehensive audits related to facility review, modification and completion. Responsible for conducting on-site audit during all phases of construction. Responsible for analyzing financial information related to revised rate cases. This person would regularly serve as an expert witness in cases before the commission. This individual reports to the Utility Regulatory Auditor V-Energy Department.

Utility Regulatory Auditor V - Responsible for supervising the utility regulatory auditors, regulatory economists and utility engineer specialists III/engineer I associated with HB 2343 activities (including employee appraisals and other administrative functions), designating lead Staff in cases, coordinating work with other departments, conducting meetings with companies, and occasionally filling the role of an expert witness in cases before the commission. This person reports to the Utility Regulatory Manager - Energy Department.

Regulatory Economist III - Responsible for economic work in the analysis of revised rate cases. Responsible for comprehensive review of tariff filings associated with filings pursuant to HB 2343. This position is also responsible for estimating the impact of rate increases on customer classes. This person would serve as an expert witness in cases before the commission. This individual reports to the Utility Regulatory Auditor V-Energy Department.

Officials from the **Department of Economic Development - Office of Public Counsel (OPC)** assume this proposed legislation would create an entirely new set of procedures for approval of costs associated with electric power plants. OPC would require a significant increase in its Staff to be able to handle the additional complex and fast-tracked cases.

ASSUMPTION (continued)

At least one utility will use the new procedures established by this proposal, which would create a series of new cases, in addition to current workload, that would last at least six years. If more than one utility uses the new procedures, workload would increase even more.

Under a very tight time line, the PSC will be required to conduct a case (in which Public Counsel would participate) and make a finding that a particular plant is a prudent investment. Then, under another very tight time line, it will be required to conduct another case (in which Public Counsel would also participate) to rule on detailed budgets and construction schedules for the plant. Other cases to revisit the findings in these first two cases may be filed at any time. Yet another series of new cases, as many as four per year for every plant, will follow. In order to have the public interest adequately represented in all of these proceedings, Public Counsel must be able to fully participate. Current staff numbers and current staff expertise are not adequate. Public Counsel must have at least two engineers to evaluate utilities' plans for generating plants, and to evaluate the progress of construction. It must have at least one additional economist to evaluate the economic assumptions and impacts of the generating plants. It must have at least two additional accountants to audit the plans for the generating plants and the books and records relating to construction.

Oversight assumes that costs associated with this proposal would not actually begin until and unless approval were granted by the Nuclear Regulatory Commission to construct a new plant. OPC states the current application is on hold and according to officials from the OPC, such approval is not likely until beyond the scope of this fiscal note; therefore, **Oversight** will not assign costs to this fiscal note.

<u>FISCAL IMPACT - State Government</u>	FY 2011 (10 Mo.)	FY 2012	FY 2013
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

<u>FISCAL IMPACT - Local Government</u>	FY 2011 (10 Mo.)	FY 2012	FY 2013
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

FISCAL DESCRIPTION

§393.135 - Currently, an electrical corporation is prohibited from making or demanding charges for service that are based on the costs of construction in progress on any existing or new facility of the electric corporation or any other costs associated with owning, operating, maintaining, or financing the property before it is fully operational and used for service. This bill removes the prohibition for baseload generating plants and generating facilities and authorizes the Missouri Public Service Commission (commission) to make or demand additional charges for service based on additional amortizations to maintain the electrical corporation's financial ratios, if in the commission's judgment, it would better enable the corporation to cost-effectively construct or implement a generating plant, environmental upgrades, smart grid infrastructure, high and low voltage delivery infrastructure, energy facilities, or energy efficient programs.

§393.1250 - Establishes the Missouri Energy Security Construction Act which requires the commission, for rate-making purposes and for obtaining required regulatory approvals, to treat all capital costs and expenses incurred by the subsidiary corporation, limited liability company, partnership, or other entity that an electrical corporation forms to acquire, finance, license, construct, own, operate, maintain, or decommission a baseload generating plant, as if the costs, expenses, and revenues were incurred or received directly by the electrical corporation and the plant itself was owned directly by the electrical corporation. The property of an electrical corporation owning a baseload generating plant must be treated as if it were owned by the electrical corporation for all purposes of the assessment and levy of property taxes.

The commission must convene a docket within 30 days of the effective date of the bill to consider the relative merits of various methods to finance baseload generating plants and generating facilities.

§393.1256, 393.1259, 393.1262, 393.1265, 393.1268, 393.1271, 393.1274, 393.1283, 393.1286 - Procedural requirements are specified for an electrical corporation filing a project development application and a facility review order as well as requirements and procedures for when the commission considers the applications and orders regarding construction work in progress for both rate-making and regulatory approval purposes. No earlier than three months after the issuance of a facility review order which, if requested by the electrical corporation, must include an order approving revised rates and every three months thereafter the electrical corporation may file with the commission requests for the approval of revised rates that must include the electrical corporation's additional investment in the facility as shown in its accounting records that were not previously included in the rates.

§393.1289 - The proposal specifies that courts of the state will have the power to review commission determinations, but cannot stop or delay the construction, operation, or maintenance

FISCAL DESCRIPTION (continued)

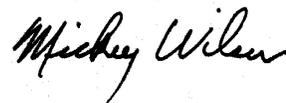
of a baseload generating plant or generating facility, except to require compliance with any unmet requirements or prohibit cost recoveries previously approved in commission proceedings.

§393.1292 - Any state or regional agency, political subdivision, or other local government, with the exception of the Department of Natural Resources, is prohibited from requiring approval, consent, permit, certificate or other condition for construction, operation, or maintenance of a baseload generating plant or other generating facility authorized by the commission, with the exception of the application of state laws for the protection of employees engaged in the construction, operation, or maintenance of a facility. State agencies will continue to have authority to enforce compliance with applicable state statutes, rules, regulations, or standards within their authority

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Department of Economic Development
 Public Service Commission
 Office of Public Counsel
Office of Administration
 Administrative Hearing Committee
 Division of Budget and Planning
Office of State Courts Administrator
Department of Natural Resources
Department of Revenue
Office of Secretary of State
 Administrative Rules Division
Missouri State Tax Commission



Mickey Wilson, CPA

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