

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 3582-08
Bill No.: SCS for SB 1132
Subject: Public Service Commission; Utilities
Type: Original
Date: April 13, 2004

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
General Revenue	(\$335,365)	(\$308,232)	(\$316,408)
Total Estimated Net Effect on General Revenue Fund	(\$335,365)	(\$308,232)	(\$316,408)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
Public Service Commission *	\$0	\$0	\$0
Total Estimated Net Effect on Other State Funds	\$0	\$0	\$0

*Assumes costs to the Fund of \$533,634, \$601,150, \$616,380 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 15 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

SECTION 386.376

Officials from the **Department of Natural Resources** and the **Department of Social Services** indicate this proposal will have no fiscal impact on their respective agencies.

Officials of the **Department of Economic Development - Public Service Commission (PSC)** state this proposal would allow the PSC to approve programs for assisting low income ratepayers in obtaining or maintaining access to utility services as long as corporations will not have any negative financial impacts. PSC is not requesting additional resources due to this proposal.

Officials of the **Department of Economic Development - Office of the Public Counsel (OPC)** state although this bill has some impact on OPC, OPC should be able to absorb the changes; however, if the requirements of this bill are combined with additional requirements or changes OPC may incur a fiscal impact.

SECTION 386.390

Officials of the **Department of Economic Development - Public Service Commission (PSC)** state this proposal requires the completion of over-earnings complaint cases in 11 months. This

ASSUMPTION (Continued)

is not a significant change from present practice.

The proposal authorizes refunds where a utility is found to have intentionally overcharged customers. This provision is not likely to result in a significant increase of work for the PSC.

PSC is not requesting additional resources due to this proposal.

In a similar proposal that prohibited consumers from filing complaints about rates, the PSC responded that this was a change from the present, in which a group of 25 or more consumers may file a complaint about rates. Few such complaints are filed now, so no significant impact is expected. In this proposal, the twenty-five signature requirement for a rate complaint is maintained, however the proposal adds language that clarifies those signatures shall come from twenty-five residential consumers or five large industrial customers as the term is defined within this section. **Oversight** assumes this version of the proposal will not have a significant fiscal impact on the PSC.

Officials of the **Department of Economic Development - Office of the Public Counsel (OPC)** state although this section of the proposal has some impact on OPC, OPC should be able to absorb the changes; however, if the requirements of this section are combined with additional requirements or changes OPC may incur a fiscal impact.

SECTION 393.156

Officials of the **Department of Economic Development, Public Service Commission (PSC)** assume the proposal would implement certain regulatory predeterminations for the electric, natural gas and water utilities in the state of Missouri. This would result in additional filings, audits, prudency reviews and associated proceedings.

PSC would need the following positions to implement this proposal:

Regulatory Engineer I - One engineer would need to be qualified in water utility work. This engineer would be responsible for evaluation of the proposed projects and contract cost estimates in an expedited manner. These efforts would likely include an assessment of depreciation issues. He/she would also be responsible for working with other PSC engineers to coordinate work when the number of parallel proceedings makes it necessary to pull in resources to complete PSC work in the proposed time allotted (180 days).

This engineer would also be responsible for considering all proposed projects and contracts from

ASSUMPTION (Continued)

a “need” basis, considering the other facilities currently operating, their condition, and any state or federally mandated safety requirements. A good understanding of total utility operation, resource planning, service quality, reliability, construction methods, and recent technologies would need to be maintained. This engineer would work closely with the auditors mentioned in this fiscal note. The Regulatory Engineer I would be a less experienced engineer than the Regulatory Engineer II and would not be assigned the more complex issues.

Regulatory Engineer II - One engineer would need to be qualified in electric utility work, with one engineer qualified in natural gas utility work. These engineers would be responsible for evaluation of the proposed projects and contract cost estimates in an expedited manner. These efforts would likely include an assessment of depreciation issues. They would also be responsible for working with other PSC engineers to coordinate work when the number of parallel proceedings makes it necessary to pull in resources to complete PSC work in the proposed time allotted (180 days).

These engineers would also be responsible for considering all proposed projects and contracts from a “need” basis, considering the other facilities currently operating, their condition, and any state or federally mandated safety requirements. A good understanding of total utility operation, resource planning, service quality, reliability, construction methods, and recent technologies would need to be maintained. These engineers would work closely with the auditors mentioned in this fiscal note. The Regulatory Engineer II would be the more experienced engineer working on these issues and would be assigned to the more complex issues.

Utility Regulatory Auditor IV - Responsible for coordinating and conducting the audits of the proposed facility or contract cases. These efforts would likely include a financial analysis of the capital issues related to the proposed projects. Would also be responsible for assuring that audits are being performed that are comprehensive and result in a complete assessment of costs associated with the proposed facilities and contracts. As needed, conduct meetings with the companies regarding their audits. The Auditor IV would report to the Auditor V.

Utility Regulatory Auditor V - Responsible for coordinating and conducting the audits of the proposed facility or contract cases. These efforts would likely include a financial analysis of the capital issues related to the proposed projects. Would be responsible for assuring that audits are being performed that are comprehensive and result in a complete assessment of costs associated with the proposed facilities and contracts. As needed, conduct meetings with the companies regarding their audits. Would bring in other auditors as needed on particularly complicated cases or when the number of parallel proceedings requires that additional resources be brought in. The Auditor V would be the senior auditor responsible for coordinating work with the other auditors

ASSUMPTION (Continued)

working in these cases.

Senior General Counsel - Responsible for coordinating cases before the PSC with involved staff and representing PSC staff in hearings before the PSC. This would include the timely processing of the facility and contract ratemaking determination filings. This individual would need to have a good understanding of construction, engineering, accounting, and financing.

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

Paralegal - Responsible for assisting the law judges in processing the anticipated substantial number of new and complex cases on an accelerated time-line. Would review pleadings and suggestions, prepare summaries, conduct legal research, review testimony, prepare summaries, indices and cross-references, tabulate and analyze figures and calculations, and prepare simple orders and notices.

PSC Staffing Assumptions for Electric, Natural Gas and Water Ratemaking Predetermination

In reviewing this proposal's different provisions and assessing their impacts to the Missouri Public Service Commission (PSC), a number of assumptions regarding how the number of Full Time Equivalents (FTE) was arrived at are important to understand. It is the PSC's belief that the utilities that have the option to utilize the provisions of this proposal will do so if they believe that an increase in revenues may result from this effort. In fact, it is their fiduciary responsibility to do so if they believe that revenues will be enhanced.

The provisions of this proposal may result in increased revenues, through increased rates, for the regulated electric, gas and water utilities in Missouri. These increases in rates would impact Missouri's industries, business owners and residential customers.

In looking at the needed PSC staff to perform the tasks required by this proposed legislation, PSC considers the existing regulatory environment. The types of regulatory predeterminations described in this legislation will require significant effort to evaluate, monitor and review if they are to work as the legislation intends.

ASSUMPTION (Continued)

This legislation will apply to the following utilities:

Electric Utilities (4 utilities with a total of 5 districts)

AmerenUE
Kansas City Power & Light Company
Empire District Electric Company
Aquila Networks (w/districts MPS and L&P)

Natural Gas Utilities (7 utilities with a total of 17 districts)

Laclede Gas Company
Missouri Gas Energy
AmerenUE (w/districts PEPL, WNG, and TETCO)
Southern Missouri Gas Company
Fidelity Natural Gas
Aquila (w/districts MPS and SJLP)
Atmos Energy Corporation (w/districts SEMO, Kirksville, Neelyville, Hannibal/Canton,
Bowling Green, Palmyra, Greeley, Butler)

Water Utilities (1 large water utility and 66 small water utilities)

Missouri American Water Company (with 9 operating districts)

Additional Filings Associated with Provisions of Legislation:

<u>Provisions</u>	<u>Assumed # of Filings</u>
Ratemaking Predetermination	20 Filings

The analysis of this legislation has been broken out below based on each of the provisions in the legislation.

Electric, Natural Gas and Water Utility Ratemaking Predetermination

Fiscal Note Impact: Additional Workload

New annual filings from electric, natural gas and water utilities that will include assessments of

LMD:LR:OD (12/02)

ASSUMPTION (Continued)

need, anticipated costs, return on common equity, capital structure to finance the facility, estimated service life, depreciation rate for cost of service, jurisdictional allocation methods to be applied to the cost, in-service criteria, actual cost audits, testimony rounds (direct, rebuttal and surrebuttal) and hearings for each for PSC decision – all to support a 180 day decision cycle.

PSC will provide new ongoing prudence audits on the cost of facilities under construction and/or completed and contracts that have been executed.

Any reductions in future rate cases are expected to be overshadowed by increased complexity in tracking of separate agreements in past rate cases, prudence of ongoing expenses and possible earning complaint cases. The number of FTE requested by PSC for this fiscal note is reduced somewhat compared to HB 1241 to reflect the “one project or arrangement” language in Section 7 of this bill.

Also note that ISRS portions of HB 208 that passed during the last session and the electric fuel adjustment clause provisions of other draft legislation require rate cases every 3 years – which is more often than several gas and electric utilities currently file cases. The 3 year time period requirement conflicts with the current PSC practice of negotiating rate moratoriums to obtain price stability for consumers and incentives for improved operational costs for utilities.

Additional Number of Filings Estimate:

PSC assumed that the 4 largest gas utilities (Laclede, MGE, AmerenUE and Aquila) and at least 1 of the smaller gas utilities (Atmos) will file annually. This adds up to 5 gas filings per year.

PSC assumed that the 4 electric utilities (AmerenUE, KCPL, Aquila and Empire) will file annually. This adds up to 4 electric filings per year. These filings may include generation units that could approach \$1 billion in estimated cost and would represent a massive effort on the part of the PSC to address in the time-frame permitted in the legislation.

PSC assumed that the largest water utility (Missouri American) will file annually. This amounts to 1 water filing per year.

All of the filings above will be accompanied by prudence audits that are assumed to occur with each case where ongoing costs and, upon completion of the project, actual costs will be audited. This adds up to 10 ongoing prudence/cost review audits. Total number of filings used for this fiscal note estimate = 20 per year (5 + 4 + 1 + 10)

ASSUMPTION (Continued)

Requested FTE:

PSC is currently asking for 6 FTE for non-adjudication divisions. This is based on the estimated number of complicated filings and issues to be addressed in an expedited time frame.

3 Engineers – 1 for electric, 1 for gas and 1 for water, for regular need assessments, ongoing construction cost reviews, completed construction and contract cost audits, and prudence audits.

2 Auditors – 1 for electric and 1 for gas, for regular cost reviews and audits, appropriate ratemaking treatment assessments, and prudence audits.

1 Senior General Counsel – Responsible for coordinating cases before the PSC with involved PSC staff and representing staff in hearings before the PSC.

ADJUDICATION DIVISION ANALYSIS OF FISCAL NOTE IMPACT

Provision:

Impact:

Predetermination of Ratemaking Principles

1 Judge, 2 Paralegals

Allows electric, natural gas and water utilities to obtain, on an expedited basis, binding determinations from the PSC as to the ratemaking treatment to be accorded proposed new assets. Assuming that 4 electric utilities, 5 gas utilities and 1 water utility file one such case each year and that each case is associated with a prudence and actual cost audit that is 20 additional cases annually. Moreover, each such case must be completed within no more than 180 days of filing.

PSC notes that these cases will be in addition to the general rate cases in which such concerns were formerly addressed, because the company will still need a rate case to get the new assets into rate base. Because these cases will directly impact rates, interventions are to be expected.

PSC assumes any costs to PSC associated with this legislation would be assessed to regulated utility companies and therefore affect Total State Revenue.

Oversight has, for fiscal note purposes only, changed the starting salary for the nine requested PSC staff positions to correspond to the second step above minimum for comparable positions in the state's merit system pay grid. This decision reflects a study of actual starting salaries for new state employees for a six month period and the policy of the Oversight Subcommittee of the Joint Committee on Legislative Research.

ASSUMPTION (Continued)

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.

Officials of the **Department of Economic Development, Office of Public Counsel (OPC)** assume this proposed legislation would significantly increase the work load associated with the review of electric company, natural gas company, and water company investments and expenses for the five major electric companies (one with multiple divisions), the four major natural gas utilities (three having multiple operating divisions with separate tariffs), and one major water company (with 9 operating divisions). This bill would provide for, on a stand-alone basis, reviews and investigations of various investments in "plant in service" and related expenses for "facilities", other utility projects, and multi-year hedging arrangements. Additionally, purchase power contracts shall also be reviewed. The MPSC would be required to issue an order stating the ratemaking treatment to be afforded these investments and expenses within 110 days of application by the utility. The cost of investments and purchased power expenses 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.

This proposal eliminates the economies of scale and scope associated with rate case audits by isolating certain tasks from the rate process and effectively adding reviews currently not performed. For example, purchase power contracts entered into and completed in between rate cases are not now routinely reviewed. OPC does not have sufficient resources to take on these additional tasks.

This proposed legislation increases the workload for OPC. The proposal also creates the potential for unforeseen complex issues to develop in subsequent rate cases and rate complaint cases due to the interplay between the predetermination of rate making principles and the requirement that PSC set just and reasonable rates. A review of each major investment along with specified purchase power contracts and hedging arrangements undertaken by electric and gas utilities places the Office of Public Counsel and ultimately PSC in a situation where it must constantly review management decisions.

OPC would require four additional FTE (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 outside consultants to provide specialized expertise in the areas of utility plant planning and

ASSUMPTION (Continued)

purchase power contract analysis, including native load generation alternatives along with the financial markets which include multi-year hedging contracts. OPC anticipates the need to perform two general investigations per year (one for an electric and one for gas). OPC would require consulting contracts allowing for service as needed, in order to respond to the limited time frame provided under the bill.

Current work spaces would have to be reorganized to provide space and accommodations for the 4 new employees within OPC. Cubicles and furnishings would need to be furnished for the new technical personnel. A cubicle already exists for the clerical position. OPC assumes it would be necessary to purchase four computers, an additional printer and copy machine.

An engineer and an economist would be required to analyze the various planning and implementation procedures associated with the construction of plant in service. The engineer would be required to look at the technical questions related to plant investments and alternatives and power flows over the transmission grid as it relates to purchase power contracts. An economist would investigate the economic consequences and outcomes of the various alternatives proposed to ensure that the most efficient alternative is being proposed. In addition, the bill provides for expedited PSC review of any matter associated with questions of prudence of the plant in service. OPC anticipates this proposal would greatly increase the flow and analysis of information regarding the utilities plant investment practices and power purchasing procedures.

Outside consultants would be able to provide specialized knowledge in the areas of purchase power contracts and related generation alternatives. OPC anticipates using the consultants for an average of one electric and one gas case each fiscal year. It would be most efficient to request bids for these consulting services. These consultants would be acquired by bid for a three year renewal contract due to the time considerations required under this bill.

OPC does not currently have a sufficient number of attorneys to represent utility customers in any additional proceedings. The legislation would allow major preapproval cases to be filed by each electric, natural gas, and water corporations. An attorney would be required to present the witnesses and legal arguments on contested issues regarding prudence and predetermination for not only construction decisions, but also ratemaking issues. These decisions will result in total customer charges in the hundreds of millions of dollars.

OPC already experiences a low support staff/professional ratio. With the addition of two 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

ASSUMPTION (Continued)

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.

Oversight has, for fiscal note purposes only, changed the starting salary for the four additional OPC staff requested to correspond to the second step above minimum for comparable positions in the state's merit system pay grid. This decision reflects a study of actual starting salaries for new state employees for a six month period and the policy of the Oversight Subcommittee of the Joint Committee on Legislative Research.

<u>FISCAL IMPACT - State Government</u>	FY 2005 (10 Mo.)	FY 2006	FY 2007
GENERAL REVENUE FUND			
<u>Cost - Office of Public Counsel</u>			
Personal Service (4 FTE)	(\$160,237)	(\$151,983)	(\$155,783)
Fringe Benefits	(\$65,697)	(\$62,313)	(\$63,871)
Expense and Equipment	<u>(\$109,431)</u>	<u>(\$93,936)</u>	<u>(\$96,754)</u>
Total Cost - OPC	<u>(\$335,365)</u>	<u>(\$308,232)</u>	<u>(\$316,408)</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	<u>(\$335,365)</u>	<u>(\$308,232)</u>	<u>(\$316,408)</u>
PUBLIC SERVICE COMMISSION FUND			
<u>Income - Increased Assessments on Regulated Utilities</u>	\$533,634	\$601,150	\$616,380
<u>Cost - Public Service Commission</u>			
Personal Service (9 FTE)	(\$322,475)	(\$396,645)	(\$406,561)
Fringe Benefits	(\$133,505)	(\$164,211)	(\$168,316)
Expense & Equipment	<u>(\$77,654)</u>	<u>(\$40,294)</u>	<u>(\$41,503)</u>
Total Cost - PSC	<u>(\$533,634)</u>	<u>(\$601,150)</u>	<u>(\$616,380)</u>
ESTIMATED NET EFFECT ON PUBLIC SERVICE COMMISSION FUND	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Local Government

FY 2005
(10 Mo.)

FY 2006

FY 2007

\$0

\$0

\$0

FISCAL IMPACT - Small Business

Small businesses served by these natural gas, water and electric corporations could see their rates increase.

DESCRIPTION

This proposal pertains to predetermination of prudence for infrastructure investments by utilities.

SECTION 386.376

Allows the Missouri Public Service Commission (PSC) to approve the terms and conditions of assistance programs for low-income residential customers, as proposed by electric or gas corporations. The proposal also allows the PSC to approve energy efficiency, weatherization, and evaluation components that are part of the proposed assistance program. All assistance programs must include provisions for adjusting rates as necessary, so that there is no negative financial impact on the electric or gas corporation.

SECTION 386.390

Maintains the twenty-five signature requirement for a rate complaint, however adds language that clarifies those signatures shall come from twenty-five residential consumers or five large industrial customers as the term is defined within this section.

Directs the PSC decide any overearnings complaints heard within eleven months. A change is made here to remove language that clarified the eleven month time frame from the date all testimony and exhibits are filed with the commission, as it stands, the language directs those complaints to be decided within eleven months period.

Establishes a refund policy upon a finding that the corporation has overearned - a change from the previous version which qualified that overearning. In cases where the PSC has determined that a company has overearned, refunds with interest from the date of the filing of an earnings complaint are due - another change.

DESCRIPTION (continued)

SECTION 393.156

Allows any electrical corporation proposing to invest more than ten percent of its net utility plant in any new generation plant may file with the PSC an application requesting a predetermination of prudence on the decision to construct. Any and all other projects - contractual, transportation agreements, etc. - can also be submitted to the PSC for such a determination, however it is at the discretion of the PSC whether or not they will consider such proposals - this is a change from a previous draft where the PSC's discretion came in as to whether or not the PSC would make a determination, this language adds to that discretion in that now, the PSC has the option to consider such proposals. The company may also request, as part of the same application, that the PSC determine ratemaking principles that will be applied to the cost of such infrastructure in future proceedings before the commission. The application may include, at the option of the corporation, a request for a certificate of convenience and necessity under Section 393.170 RSMo.

At the time the application is filed, the corporation shall file all evidence supporting its proposed course of action as well as proposed confidentiality agreements and identify all material for a which a need for confidentiality is asserted. If any proposed generation facility is not to be located within the state, the corporation shall also submit evidence that the location of the facility or the contract is in the best interest of Missouri ratepayers.

Under this proposal, the PSC shall establish guidelines for the submission of the application. The PSC shall conduct a hearing and issue an order within one hundred and eighty days after the filing of an application. The PSC may approve the application as proposed by the corporation, on the basis of conditions required to be accepted by the corporation, or may reject the application. If, after a hearing and consequent order, the PSC determines that the proposed investment is reasonable and prudent, the commission may impose monitoring and reporting conditions on the company responsible. Costs shall be included in the company's rates only in accordance with existing law, except as provided in subsection 6 of the section. Nothing in this proposal alters the PSC's authority to set the rates or to review the prudence of construction management for the company in question.

The order by the PSC approving, modifying, or rejecting the determination of prudence and addressing ratemaking principles will be applied in any future rate case to the investment and costs of the facility or contract and shall be binding for ratemaking purposes in all future proceedings. Ratemaking principles may include but shall not be limited to, estimated service life, depreciation rate for cost of service purposes, and authorized return on equity.

DESCRIPTION (continued)

If the PSC fails to issue an order within one hundred and eighty days, any certificate for convenience and necessity and any ratemaking principles requested by the corporation in the application shall be deemed approved by the PSC and shall be binding for ratemaking purposes in all future proceedings.

A corporation shall have two hundred seventy days after the effective date of a prudency order to notify the PSC whether it will proceed with the proposed project identified in the application. If the corporation notifies the Commission that it will not proceed with the proposed project, any ratemaking principles included in the order will be of no further force and effect and there shall be no adverse presumption applied to the corporation in any future proceeding before the PSC.

The corporation shall report to the PSC at the times specified in the order or upon the occurrence of any unusual event which may individually, collectively, materially and adversely affect the project for which a certificate has been issued. At the time of such a report, the corporation or the PSC may consider a modification or termination of the project.

In the event that the PSC, after hearing, determines the continuation of the project is no longer prudent or should be modified, the corporation shall be allowed to recover in rates, the amounts already expensed, incurred, or obligated on such project. These costs will be amortized to expenses over a period of years and in a manner to be determined by the PSC at the time the application is initially approved or when the order to modify or terminate the project is issued.

No company shall file more than one application covering more than one project in a twelve month period, excluding circumstances when an application has been denied, dismissed, or approved but not entered into - a company can file a new application for the same or an alternative project at any time. Such limitations can be waived by the PSC if the waiver is found to be in the public interest.

Nothing in this proposal shall excuse a corporation from complying with its public service obligation to provide safe and adequate service at just and reasonable rates.

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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Bill No. SCS for SB 1132
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February 13, 2004

SOURCES OF INFORMATION

Department of Economic Development
Office of Public Counsel
Public Service Commission
Department of Natural Resources
Department of Social Services

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

Mickey Wilson, CPA
Director
April 13, 2004