

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1109-03
Bill No.: SB 228
Subject: Consumer Protection; Public Service Commission; Utilities
Type: Original
Date: February 10, 2009

Bill Summary: Modifies the construction-while-in-progress (CWIP) law for construction of certain new power plants and creates the Missouri Clean and Renewable Energy Construction Act

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
Total Estimated Net Effect on General Revenue Fund	\$0	\$0	\$0

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
PSC Fund	\$0	\$0	\$0 to (\$1,210,829 to \$1,468,779)
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0 to (\$1,210,829 to \$1,468,779)

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 11 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
PSC Fund	0	0	0 to 12
Total Estimated Net Effect on FTE	0	0	0 to 12

☒ 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 2010	FY 2011	FY 2012
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Natural Resources, Office of Administration - Administrative Hearing Commission** assume there will be no fiscal impact to their agency.

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

Under a very tight timeline, 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 timeline, 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.

Officials from the **Department of Economic Development - Public Service Commission (PSC)** assume this proposal would modify the construction-work-in-progress law for certain power plants in Missouri and create new rate filings for construction projects related to renewable energy sources. If the investor-owned electric utilities use the provisions of this legislation, it would result in additional filings, audits, reviews, rate cases and associated proceedings before the Commission.

There are two fiscal estimate scenarios associated with this fiscal note. Under each scenario, 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 in each scenario has been reduced to reflect existing Staff resources that will be used to supplement the new workload. Both are conservative estimates of the need for additional resources assuming significant support from existing staff.

ASSUMPTION (continued)

It is difficult to estimate the full impact of the legislation since it is unknown how many clean baseload generating plant and low-carbon producing generating facility 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.

Fiscal Estimate 1

In response to Truly Agreed to and Finally Passed Senate Bills 179 (2005) and 54 (2007), the PSC established an Energy Resource Analysis Group to review filings associated with integrated resource planning proposals, Green Power Initiative (superseded by Renewable Energy Standard), net metering filings, environmental cost recovery mechanism proposals and fuel adjustment clause filings and reviews. It was also envisioned that this group would monitor, review and make recommendations related to the construction of a new nuclear plant in Missouri.

In response to SB 228, the Energy Resource Analysis Group would also be responsible for monitoring, reviewing and making recommendations related to initial applications for the construction within Missouri of clean baseload generating plants and low-carbon producing generating facilities that utilize renewable sources to produce energy.

For FY 2010, the PSC is seeking 3 additional FTE to be allocated to the Energy Resource Analysis Group – 2 FTE classified as Utility Engineering Specialist III/Utility Regulatory Engineer 1 and 1 FTE classified as a Rates and Tariff Examiner. **Assuming the PSC receives** the three FTE associated with the pending request, Fiscal Estimate 1 for SB 228 makes the following assumptions for additional FTE needed to monitor the interests of the consumer throughout the ratemaking processes.

- 1 Regulatory Law Judge @ 10%-15% travel
- 1 Senior Counsel @ 10%-15% travel
- 1 Legal Counsel @ 10%-15% travel
- 1 Utility Engineering Specialist III @ 10%-15% travel
- 1 Utility Engineer I @ 50% travel
- 1 Utility Regulatory Auditor III @ 10-15% travel
- 1 Utility Regulatory Auditor IV @ 50% travel
- 1 Utility Regulatory Auditor V to supervise the group @ 10%-15% travel
- 1 Regulatory Economist III @ 10%-15% travel

ASSUMPTION (continued)

9 FTE for a travel estimate of \$38,375

Other Expenses

Seminars & Training: \$1000/year/professional FTE = \$9000
Office Supplies: \$318/year/professional FTE = \$2862
Telephone Expense: \$780/year/professional FTE = \$7020
Publications and Subscriptions: \$100/year/professional FTE = \$900
Rental of Office Space: \$200 sq ft/FTE@\$13.50/sq ft = \$24,300
Personal Computer installation: \$175 each x 9 FTE = \$1575
PC (standard): \$1,092 each x 9 FTE = \$9828
Laser Printer: \$2,000 each x 4 FTE = \$8,000
Calculator: \$51 each x 9 FTE = \$459

Fiscal Estimate 2

In response to Truly Agreed to and Finally Passed Senate Bills 179 (2005) and 54 (2007), the PSC established an Energy Resource Analysis Group to review filings associated with integrated resource planning proposals, Green Power Initiative (superseded by Renewable Energy Standard), net metering filings, environmental cost recovery mechanism proposals and fuel adjustment clause filings and reviews. It was also envisioned that this group would monitor the construction of a new nuclear plant in Missouri. In response to SB 228, the Energy Resource Analysis Group would also be responsible for reviewing and making recommendations related to initial applications for the construction within Missouri of clean baseload generating plants and low-carbon producing generating facilities that utilize renewable sources to produce energy.

For FY 2010, the PSC is seeking 3 additional FTE to be allocated to the Energy Resource Analysis Group – 2 FTE classified as Utility Engineering Specialist III/Utility Regulatory Engineer 1 and 1 FTE classified as a Rates and Tariff Examiner. **Assuming the PSC does not receive** these three FTE associated with the pending request, Fiscal Estimate 2 for SB 228 makes the following assumptions for FTE needed to monitor the interests of the consumer in the ratemaking and construction processes.

1 Regulatory Law Judge @ 10%-15% travel
1 Senior Counsel @ 10%-15% travel
1 Legal Counsel @ 10%-15% travel
2 Utility Engineering Specialist III @ 10%-15% travel
1 Utility Engineer I @ 50% travel
1 Utility Engineer I @ 10%-15% travel

ASSUMPTION (continued)

1 Utility Regulatory Auditor III @ 10-15% travel
1 Utility Regulatory Auditor IV @ 50% travel
1 Utility Regulatory Auditor V to supervise the group @ 10%-15% travel
1 Regulatory Economist III @ 10%-15% travel
1 Rate & Tariff Examiner @ 10%-15% travel

12 FTE for a travel estimate of \$44,410

Other Expenses

Seminars & Training: \$1000/year/professional FTE = \$12,000

Office Supplies: \$318/year/professional FTE = \$3816

Telephone Expense: \$780/year/professional FTE = \$9360

Publications and Subscriptions: \$100/year/professional FTE = \$1200

Rental of Office Space: \$200 sq ft/FTE@\$13.50/sq ft = \$32,400

Personal Computer installation: \$175 each x 12 FTE = \$2,100

PC (standard): \$1,092 each x 12 FTE = \$13,104

Laser Printer: \$2,000 each x 5 FTE = \$10,000

Calculator: \$51 each x 12 FTE = \$612

Job Functions applicable to both fiscal estimates:

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 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 also reviews the work of the Legal Counsel.

Legal Counsel - 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 and renewable generation facility design, modifications, and implementation.

ASSUMPTION (continued)

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.

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.

Utility Regulatory Auditor V - Responsible for supervising the new group (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.

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 SB 228. 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.

Rate and Tariff Examiner – Responsible for analyzing and evaluating proposed rates and tariffs. Work involves assisting the Regulatory Economist III in the development of Staff positions related to the revised rates, and preparation of material which may be used as testimony in PSC hearings. This person may also serve as an expert witness in cases before the commission. This individual reports to the Utility Regulatory Auditor V.

Salary range/step for each position are: Range 32, Step J for: Regulatory Law Judge, Senior Counsel, Utility Engineering Specialist III, Utility Regulatory Engineer I, Utility Regulatory Auditor V, Regulatory Economist III; Range 26, Step G for Utility Regulatory Auditor III; Range 29, Step H for Utility Regulatory IV; Range 28, Step G for Legal Counsel; Range 25, Step G for Rate & Tariff Examiner II; Legal Counsel Range 28, Step G.

Oversight assumes this proposal is contingent upon its passage as well as the construction-work-in-progress for certain power plants in Missouri. **Oversight** assumes that these costs are dependent upon when the timeline begins for preconstruction activities of the power plant in Missouri.

FISCAL IMPACT - State Government

FY 2010
 (10 Mo.)

FY 2011

FY 2012

PSC FUND

Cost - Department of Economic
 Development - Office of Public Counsel

Salaries	\$0	\$0	\$0 or (\$250,217)
Fringe Benefits	\$0	\$0	\$0 or (\$121,681)
Equipment & Expense	<u>\$0</u>	<u>\$0</u>	<u>\$0 or (\$21,749)</u>
Total	<u>\$0</u>	<u>\$0</u>	<u>\$0 or (\$393,647)</u>

Estimated Net FTE Change for Office of
 Public Counsel

0 0 5

Cost - Department of Economic
 Development - Public Service
 Commission

Salaries	\$0	\$0	\$0 or (\$490,953 to \$649,709)
Fringe Benefits	\$0	\$0	\$0 or (\$238,750 to \$315,953)
Equipment & Expense	<u>\$0</u>	<u>\$0</u>	<u>\$0 or (\$87,479 to \$109,470)</u>
Total	<u>\$0</u>	<u>\$0</u>	<u>\$0 or (\$817,182 to \$1,075,132)</u>

Estimated Net FTE Change for Public
 Service Commission

0 0 9 to 12

**ESTIMATED NET EFFECT ON PSC
 FUND**

\$0 \$0 \$0 to
 (\$1,210,829 to
 \$1,468,779)

FISCAL IMPACT - Local Government

FY 2010
(10 Mo.)

FY 2011

FY 2012

\$0

\$0

\$0

FISCAL IMPACT - Small Business

Yes. Legislation may affect electric rates for small businesses.

FISCAL DESCRIPTION

The act creates the Missouri Clean and Renewable Energy Construction Act.

The act modifies the construction work in progress (CWIP) law to allow financing costs associated with the construction of certain types of "clean energy" and "low carbon-producing" power plants to be recoverable by an electric company through its customer rates prior to plant start-up. Eligible power plants include nuclear facilities, coal-fired power plants that minimize air emissions using carbon sequestration or similar techniques, and power plants that generate energy from renewable sources such as wind, solar, and biomass.

Subsidiary corporations created by an electric company for the purpose of building or operating a nuclear plant or low carbon-emitting coal-fired plant shall be considered and treated as the electric company under the act.

Electric companies may apply to the Public Service Commission (PSC) for a project development order, which is an order issued by the PSC establishing the prudence of an electric company's decision to incur preconstruction costs for a clean energy or low carbon-producing power plant. The act specifies the information required to be in the application and provides deadlines by which the PSC is supposed to respond to an application. All costs associated with preconstruction activities shall be recoverable through customer rates, unless it is demonstrated during a rate proceeding before the PSC that a cost was incurred imprudently by the electric company. If the electric company decides not to build the power plant after a project development order has been issued, the associated costs are still recoverable through customer rates, provided that the decision to not build the power plant is reasonable.

Electric companies may apply to the PSC for a facility review order, which is an order issued by the PSC that establishes the prudence of the anticipated construction costs to build a clean energy or low carbon-producing power plant. The act specifies the information required to be in the application, which includes the anticipated construction schedule, capital costs, and revised rate information.

FISCAL DESCRIPTION (continued)

The act lists information to be included in any facility review order issued by the PSC, which includes a construction schedule, components of capital costs including contingencies, return on equity, and various rate-related pieces of information. An electric company may petition the PSC to modify a facility review order. The act provides deadlines by which the PSC is supposed to respond to a facility review order application or to a request to amend a facility review order.

Provided that the electric company adheres to the construction schedule and costs listed in the facility review order, the electric company may recover the construction financing costs through customer rates. The PSC can disallow any construction cost that is shown during a rate hearing to have materially or adversely deviated from the facility review order to the extent that such deviation stems from imprudence on the part of the company. Deviations caused by forces or factors beyond the company's control shall not be considered imprudence on the part of the company.

The act provides that if the Clean and Renewable Energy Construction Act is modified in the future in such a way as to limit or prohibit construction financing costs to be recovered through rates, any costs incurred by an electric company up to that point shall still be recoverable.

Electric companies that have been issued a facility review order must report to the PSC semi-annually until the power plant is in operation. The act lists information required in the report. The PSC shall monitor the construction of and expenditure of capital associated with building the power plant.

The act provides procedures for an electric company to request to revise its rates as it incurs additional construction costs. If the PSC finds that any previously approved rates resulted in an excess of revenue above the amount approved in the facility review order, the electric company shall credit its customers' bills over the subsequent 4 monthly billing cycles. Similarly, if any previously approved rates resulted in a recovery less than the amounts specified in the facility review order, the difference is recoverable from customers over the next 4 monthly billing cycles. Electric companies shall promptly notify their customers of any increase in rates approved by the PSC in a revised rate order for construction costs.

If construction of the power plant gets cancelled, the associated construction costs may still be recovered through rates, provided that the decision to cancel the construction is reasonable.

Once a power plant under a facility review order is constructed, the PSC shall audit the company's finances in relation to the project and its cost recovery for purposes of determining compliance with the facility review order. Any over- or under-recovery of costs shall be credited or charged, respectively, to the customers.

FISCAL DESCRIPTION (continued)

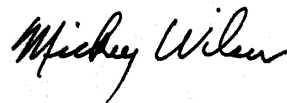
Procedures for re-hearing a PSC order are provided in the act.

The act restricts courts from hearing any matter over which the act expressly gives the PSC jurisdiction and restricts any state, regional, or local government from requiring any additional approval for the construction of a clean energy or low carbon-producing power plant beyond what is required in the act.

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 Natural Resources
Office of Administration -
 Administrative Hearing Commission
Department of Economic Development -
 Office of Public Counsel
 Public Service Commission



Mickey Wilson, CPA
Director
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