

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 4491-01  
Bill No.: SB 730  
Subject: Contract and Contractors; Corporation; Department of Economic Development;  
Public Service Commission; Utilities  
Type: Original  
Date: January 16, 2018

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Bill Summary: This proposal establishes the Rate Case Modernization Act.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2019	FY 2020	FY 2021
General Revenue Fund	(Unknown greater than \$77,142)	(Unknown greater than \$88,082)	(Unknown greater than \$88,926)
<b>Total Estimated Net Effect on General Revenue</b>	<b>(Unknown greater than \$77,142)</b>	<b>(Unknown greater than \$88,082)</b>	<b>(Unknown greater than \$88,926)</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
FUND AFFECTED	FY 2019	FY 2020	FY 2021
Public Service Commission Fund	(\$148,141)	(\$173,208)	(\$174,867)
<b>Total Estimated Net Effect on <u>Other</u> State Funds</b>	<b>(\$148,141)</b>	<b>(\$173,208)</b>	<b>(\$174,867)</b>

Numbers within parentheses: ( ) indicate costs or losses.  
This fiscal note contains 10 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2019	FY 2020	FY 2021
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2019	FY 2020	FY 2021
General Revenue Fund	1 FTE	1 FTE	1 FTE
Public Service Commission Fund	2 FTE	2 FTE	2 FTE
<b>Total Estimated Net Effect on FTE</b>	<b>3 FTE</b>	<b>3 FTE</b>	<b>3 FTE</b>

☒ Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$100,000 in any of the three fiscal years after implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2019	FY 2020	FY 2021
<b>Local Government</b>	<b>\$0 or (Unknown)</b>	<b>\$0 or (Unknown)</b>	<b>\$0 or (Unknown)</b>

## **FISCAL ANALYSIS**

### **ASSUMPTION**

Officials from the **Department of Economic Development - Division of Energy (DE)** assume there would be a fiscal impact to DE from the numerous provisions in this bill that are related to PSC regulatory issues due to DE's involvement in such cases. DE staff will actively participate in cases before the PSC where the provisions of this bill are considered and implemented. DE assumes it would need 1FTE Planner III ( at \$55,368 annually) to complete new duties including initially participating in rulemakings and other proceedings required for the transition to the new regulatory structure and modernization mechanisms. On an ongoing basis, this FTE will monitor and evaluate the impact of the proposed infrastructure modernization and rate adjustment mechanism provisions and perform specialized professional work in planning and policy development.

DE anticipates a total cost of approximately \$88,000 for this FTE from this proposal.

Officials from the **Department of Economic Development - Office of Public Counsel (OPC)** assume:

Section 393.1715 of this proposal would establish mechanisms for interim rate case adjustments without a general rate proceeding where all relevant factors are considered in setting utility rates. This section would authorize an application process in which rates would be raised on partially and possibly fully estimated figures.

Also, Section 393.1715 of this proposal creates a small window for economic development rates to be sought, subject to Commission approval. Such mechanism will create additional proceedings.

Sections 393.1745 and 393.1750 of this proposal directs the Public Service Commission to investigate the effectiveness of the proposed legislation and promulgate rules effectuating the legislation. Both instances will demand a commitment of resources from the Office of the Public Counsel.

OPC assumes time spent litigating existing revenue adjustment mechanisms, the potential for appellate work, and the amount of Investor-owned Utilities who would be eligible to seek such a mechanism, would likely require one additional attorney (at \$58,423 annually) and one additional accountant (at \$50,112 annually).

OPC anticipates a total cost of approximately \$175,000 for these FTE from this proposal.

ASSUMPTION (continued)

Officials from the **Office of Administration - Facilities Management Design and Construction (OA-FMDC)** assume this legislation allows the gas corporations to adjust their rates and charges, so they can recover the cost to replace their infrastructure. OA-FMDC has no way of knowing how much money the gas corporations plan to spend for new infrastructure annually.

In the last three fiscal years, OA-FMDC has average \$3.3 million in natural gas expenditures. To estimate the possible recovery cost for new infrastructure betterments that the gas corporations would recover, we estimate 1% increase would be \$33,000 on the average gas expenditures and 5% would be \$165,000.

OA-FMDC assumes this proposal may increase utility cost to all state departments and local governments depending on the gas corporations infrastructure plans.

Officials from the **Department of Economic Development - Public Service Commission** and the **Metropolitan St. Louis Sewer District** each assume the proposal will have no fiscal impact on their respective organizations.

<u>FISCAL IMPACT - State Government</u>	FY 2019 (10 Mo.)	FY 2020	FY 2021
<b>GENERAL REVENUE FUND</b>			
<u>Cost - DE</u>			
Personal Service	(\$46,140)	(\$55,922)	(\$56,481)
Fringe Benefit	(\$22,694)	(\$27,397)	(\$27,563)
Equipment and Expense	(\$8,308)	(\$4,763)	(\$4,882)
<u>Total Cost - DE</u>	<u>(\$77,142)</u>	<u>(\$88,082)</u>	<u>(\$88,926)</u>
FTE Change	1 FTE	1 FTE	1 FTE
<u>Cost - OA</u>	\$0 or	\$0 or	\$0 or
Possible increase in utility cost	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
<b>ESTIMATED NET EFFECT ON THE GENERAL REVENUE FUND</b>	<b>(Unknown greater than <u>\$77,142</u>)</b>	<b>(Unknown greater than <u>\$88,082</u>)</b>	<b>(Unknown greater than <u>\$88,926</u>)</b>
Estimated Net FTE Change to the General Revenue Fund	1 FTE	1 FTE	1 FTE

**PUBLIC SERVICE COMMISSION  
 FUND**

Cost - OPC

Personal Service	(\$90,446)	(\$109,620)	(\$110,717)
Fringe Benefit	(\$44,842)	(\$54,133)	(\$54,459)
Equipment and Expense	(\$12,853)	(\$9,455)	(\$9,691)
<u>Total Cost - OPC</u>	<u>(\$148,141)</u>	<u>(\$173,208)</u>	<u>(\$174,867)</u>
FTE Change	2 FTE	2 FTE	2 FTE

<b>ESTIMATED NET EFFECT ON THE PUBLIC SERVICE COMMISSION FUND</b>	<b><u>(\$148,141)</u></b>	<b><u>(\$173,208)</u></b>	<b><u>(\$174,867)</u></b>
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Estimated Net FTE Change on the Public Service Commission Fund	2 FTE	2 FTE	2 FTE
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<u>FISCAL IMPACT - Local Government</u>	FY 2019 (10 Mo.)	FY 2020	FY 2021
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**LOCAL POLITICAL SUBDIVISIONS**

<u>Cost - Possible increase in utility cost</u>	\$0 or <u>(Unknown)</u>	\$0 or <u>(Unknown)</u>	\$0 or <u>(Unknown)</u>
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<b>ESTIMATED NET EFFECT ON LOCAL POLITICAL SUBDIVISIONS</b>	<b><u>\$0 or (Unknown)</u></b>	<b><u>\$0 or (Unknown)</u></b>	<b><u>\$0 or (Unknown)</u></b>
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FISCAL IMPACT - Small Business

This proposal could fiscally impact small businesses receiving public utilities services from a Public Service Commission regulated utility.

## FISCAL DESCRIPTION

(Section 393.1012) Currently, the Public Service Commission shall not approve, and a gas corporation shall not collect, an infrastructure system replacement surcharge (ISRS) for any gas corporation that has not had a general rate proceeding within the past 3 years. Under this act, gas corporations that become "participating gas corporations" by filing an initiating general rate proceeding, an annual true-up, and periodic rate review proceedings under the Rate Case Modernization Act are exempt from this provision.

This proposal requires gas corporations utilizing ISRS to develop and file with the Public Service Commission a pre-qualification process for contractors seeking to participate in competitive bidding to install ISRS-eligible gas utility plant projects. The gas corporation may specify the criteria that the contractor shall meet in order to qualify to participate in the competitive bidding process, but such criteria shall not be based on whether or not the contractor contracts with a union. Under this act, the gas corporation shall file a verified statement with the Public Service Commission stating that it has in place a pre-qualification process by January 1, 2019. Any ISRS petition thereafter shall be accompanied with a verified statement that the gas corporation is using a competitive bidding process for installing no less than 10% of ISRS-eligible gas utility plant projects. Under this act, the lowest and best bid in the competitive bidding process shall receive the contract to perform the project.

Under this proposal, the Public Service Commission shall prepare a report for the General Assembly annually, with the first report being submitted by December 31, 2020, on the competitive bidding process established under this act.

Nothing in this proposal shall diminish the authority of the Public Service Commission or certain individuals and groups to file a complaint alleging that the rates of the gas corporation are unreasonable or unlawful.

(Sections 393.1700-393.1750) - This proposal establishes the Rate Case Modernization Act.

(Section 393.1715) - Under this proposal, a gas corporation may elect to become a participating gas corporation seeking to recover its cost of service through the Rate Case Modernization Act by filing an initiating general rate proceeding with the Public Service Commission and participating in annual true-ups and periodic rate review proceedings. Under this act, a gas corporation participating in the Rate Case Modernization Act is referred to as a "participating gas corporation". If the gas corporation seeking to become a participating gas corporation has had new rates become effective in the past 2 years as a result of a general rate proceeding, the Public Service Commission shall conduct a proceeding to determine the foundational elements of the corporation's periodic rate review proceeding, as defined in this act.

FISCAL DESCRIPTION (continued)

Such proceeding shall be concluded within 5 months, and shall not result in any change in rates.

(Section 393.1720) - As part of a participating gas corporation's initiating general rate proceeding, this act requires the Public Service Commission to approve a revenue stabilization mechanism (RSM) to address over- or under-recovery of revenue due to weather and conservation-related changes in customer usage equal to 20,000 decatherms. Rates shall be adjusted by the amount necessary to return to, or recover from, customers over the subsequent 12-month period the difference between revenues billed and revenues authorized from the previous initiating general rate proceeding or periodic rate review proceeding. Certain revenue variations shall not be accounted and adjusted for as set forth in this act.

(Section 393.1725) - Under this proposal, a participating gas corporation shall file tariffs, rate schedules, and minimum filing requirements to be used to establish the revenue requirement to be reflected in rates in the participating gas corporation's annual true-up at least 45 days prior to the end of each updated test year, as defined in this act. Such annual true-up filing shall be based on the most recent 3 quarters of information on the participating gas corporation's books, with a forecast for the remaining quarter. Such forecast shall be of sufficient detail to permit review by Public Service Commission staff, with updated results provided to the staff at least 30 days before the staff's recommendation is due. Such annual true-up filing shall also include supporting accounting schedules showing how the revenue requirement was calculated, as well as minimum filing requirements set forth in this act, such as a full set of financial reports for the participating gas corporation's Missouri operations, updated regulatory assets and liabilities and cost stabilization reserve amounts, updated rate base, a full accounting of updated ineligible operating expenses, a full set of cost of service schedules, an earnings test calculated as set forth in this act, and a full calculation of the cost management accountability (CMA).

The earnings test required under the minimum filing requirements for a participating gas corporation's annual true-up shall determine if the return achieved exceeds or falls below a range of 50% of the updated return on equity. Such test shall determine the increase or decrease to the corporation's revenue requirement to bring the return back to the updated return on equity, subject to the annual rate cap. Under this act, "annual rate cap" is defined as a limitation on the amount of any increase to the revenue requirement reflected in rates resulting from the application of the earnings test to an annual amount of no more than 3.5% of the gas corporation's Missouri gross jurisdictional revenues, with excess amounts deferred to a later period. Such limitation is inclusive of any ISRS.

FISCAL DESCRIPTION (continued)

Further, as part of the earnings test, the updated return on equity shall first apply adjustments based on the results of performance measurement indicators and capital market changes. Performance measurement indicator adjustments shall compare achieved performance to the benchmark performance range of expected performance. For each instance where achieved performance is higher than the benchmark range, the corporation's updated return on equity shall be adjusted by adding 0.05%. For each instance where achieved performance is lower than the benchmark range, the corporation's updated return on equity shall be adjusted by subtracting 0.05%. For capital market changes, the updated return on equity for shall be adjusted by the amount of the difference between the starting benchmark capital market rate and any increase or decrease in U.S. Treasury Bond yields for the updated test year.

Within 4 months of filing an annual true-up, the Public Service Commission staff shall submit its recommendation verifying the participating gas corporation's revenue requirement calculations. If the parties to the annual true-up are unable to jointly recommend a revenue requirement to the Public Service Commission within 20 days of the Public Service Commission's staff report filing, the Commission shall establish a procedural schedule to resolve such differences within 5 months in order to make rates permanent. Any adjustments made to the revenue requirement by the Public Service Commission shall be reflected in the participating gas corporation's next annual true-up filing, and shall include a rebasing of all ISRS.

(Section 393.1730) - Following the conclusion of the third annual true-up, and at the conclusion of each third annual true-up thereafter, the participating gas corporation shall file a periodic rate review proceeding at least 6 months prior to the corporation's next annual true-up. Upon receiving the filing, the Public Service Commission shall review the filing and issue an order on each item within 5 months of the filing date. Such determinations shall be used to set rates in subsequent annual true-ups, subject to judicial review.

The periodic rate review filing shall include certain items as set forth in this act, such as a description of calculation methods to determine the cash working capital requirement specifying revenue and expense lag and regulatory assets or liabilities receiving rate base treatment, a description of each regulatory asset or liability to be included in rates, a description of each item in the cost stabilization reserve, a description of the weighted capital structure to be included in rates in the annual true-up, a specification of the return on equity to be used to calculate rates, a description of the performance measurement indicators to be used to measure performance set by the Commission, the defined performance benchmark cost level for operations and maintenance (O&M) expense, a description of the categories and types of ineligible operating expenses, a description of the methodologies to be used to allocate joint and common costs included in rates between the gas corporation and its affiliates, a identification of billing determinants used to set



FISCAL DESCRIPTION (continued)

rates and class cost of service method, an identification of the depreciation rates, and a set of templates to be used for quarterly surveillance reports.

(Section 393.1735) - This proposal allows a participating gas corporation to file tariffs with the Public Service Commission authorizing programs to retain or attract businesses, jobs, and investment in Missouri. Such tariffs shall include provisions that allow the participating gas corporation to provide discounted rates for utility service, so long as such discounted rates meet certain criteria as set forth in this act. Rates approved by the Public Service Commission during the participating gas corporation's annual true-up shall reflect the actual revenues received under the discounted rate.

(Section 393.1740) - This proposal allows a participating gas corporation to terminate its participation in the update process at the conclusion of any updated test year. Rates set under the Rate Case Modernization Act shall remain in effect until new rates are set in a general rate proceeding.

(Section 393.1745) - This proposal requires the Public Service Commission to prepare a report to the General Assembly on the impact of the Rate Case Modernization Act by December 31, 2025. Participating gas corporations shall cooperate in good faith to provide data necessary for the preparation of such report.

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  
Office of Administration  
Metropolitan St. Louis Sewer District

Ross Strope

A handwritten signature in black ink, appearing to read "Ross Strope", with a stylized flourish at the end.

Acting Director  
January 16, 2018