

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. NO. 2451-02
BILL NO. SB 781
SUBJECT: Utilities; Business and Commerce
TYPE: Original
DATE: February 21, 2000

FISCAL SUMMARY

ESTIMATED NET EFFECT ON STATE FUNDS			
FUND AFFECTED	FY 2001	FY 2002	FY 2003
General Revenue	(\$443,313)	(\$469,702)	(\$276,818)
Public Service Commission Fund*	\$0	\$0	\$0
Total Estimated Net Effect on <u>All</u> State Funds	(\$443,313)	(\$469,702)	(\$276,818)

* Assumes costs of \$584,294, \$619,276 and \$430,065 in FY 01, FY 02 and FY 03 respectively, and an increase in the PCS assessment and appropriation, resulting in a net effect of \$0.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2001	FY 2002	FY 2003
None			
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2001	FY 2002	FY 2003
Local Government	(Unknown)	(Unknown)	(Unknown)

Numbers within parentheses: () indicate costs or losses

This fiscal note contains 16 pages.

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of Administration - Division of Purchasing and Materials Management (COA)** and the **Department of Revenue (DOR)** assume this proposal would not fiscally impact their agencies. The COA assumes the proposal could have long-range implications, since it would provide the State of Missouri, as a retail electric consumer, the ability to purchase electric service in a competitive market. Depending on the availability of competitive markets for retail electric service, the Division of Purchasing could see an increased workload with bidding and establishing contracts for electric service for state facilities. Also, Chapter 34 RSMo, which defines purchasing requirements for the State, requires "supplies" in excess of \$3,000 to be purchased based on competitive bidding. However, the definition of "supplies" in Section 34.010 specifically excludes "utility services regulated under Chapter 393". The Division of Purchasing is unsure if utility services would still be "regulated" under Chapter 393 and therefore excluded from competitive bidding requirements as defined in Chapter 34.

Officials from the **Department of Natural Resources (DNR)** assume any fiscal impact resulting from the cost of electricity to the DNR is unknown. The DNR assumes any increase in air emissions, wastewater emissions and additional ash generated for disposal will continue to require appropriate permits that must consider cumulative impacts. Increases in air emissions will require additional controls for water contaminants such as SO₂ (Sulfur Dioxide), NO_X (Nitrogen Oxide) and mercury. Use of alternate fuels, for example, landfill gases, tire-derived fuel or any other solid waste should continue to be competitively available. Siting new facilities and additional transmission lines and decommissioning of retiring facilities will require appropriate permits.

DNR assumes the following local fiscal impact could result:

1) Changes in property tax collections

In the process of removing the PSC controlled regulatory framework and replacing it with a market driven approach to the generation of electrical power, there are some major investments (such as obsolete power plants) that would be worth substantially less after de-regulation than they are currently. This has the potential to be the cause of massive reductions in property values, and thus lead to a reduction in property taxes collected.

The department is unable to offer an informed estimate of the size and number of these local impacts.

ASSUMPTION (continued)

2) Changes in purchasing practices

Until electric de-regulation is enacted, establishing the price of electric service provided to local units of government has been handled by the Public Service Commission. As a result, most communities have not developed expertise in the purchasing this commodity/service. When competition is in effect, communities will be faced with new choices. To address this change, communities will either forgo opportunities to get the best available package of price and service, or they will have to develop expertise in purchasing this commodity/service.

The department is unable to offer an informed estimate of the potential for savings or increase in costs.

The **Department of Economic Development, Office of Public Counsel (OPC)** states that this proposal would create many additional duties and would require 5 FTE, including an additional engineer, an additional economist, a consumer education/outreach specialist, a consumer services specialist, and one additional support staffer to handle the additional duties required by this bill. Note that although this type of legislation is sometimes called “deregulation,” Public Counsel believes that there will be many additional duties created, while very few if any of the current duties and responsibilities of the office will cease.

Section 393.806.1 permits new entrants in the business of providing electricity to end users. Section 393.840.1 requires these players to be certified by the Commission. In order to protect the interests of consumers, Public Counsel believes that the fitness of every one of these new entrants must be carefully investigated and examined. Both the additional economist and the additional engineer will be necessary for Public Counsel to effectively participate in these cases. Because there will likely be different entities providing generation, transmission, and distribution services there will be an increased number of contractual arrangements, and a much larger and more diverse group of entities involved in delivering power to the end user. The reliable performance of each of these entities, some of which will be regulated by the state, some by the federal government, and some of which will be unregulated, will be critical to the continued reliability and adequacy of electric service. This Bill does not change the public interest concerns with regard to the provision of electric service. Therefore, the contractual paths as well as the actual physical paths of power flow must be analyzed and monitored. Both the additional economist and the additional engineer will be involved in this analysis and monitoring. The economist will be necessary to monitor transactions among regulated entities and their affiliates, and to ensure that these transactions take place at market value and do not provide an unfair competitive advantage. The engineer will also be required to determine whether proposed contractual arrangements could have the effect of overloading transmission or distribution lines.

ASSUMPTION (continued)

The engineer will also be necessary to evaluate the necessity for, as well as the cost estimates for, any transmission and distribution system upgrades or additions. The need for capacity upgrades is expected since the transmission system was not built to handle the level of interchange transactions likely to accompany retail competition. This position will also be responsible for evaluating new metering and billing technology in particular, and any new technology in general. Consumers will, for the first time, be faced with making a choice of who provides their power. At the same time, they will be faced with the complexity of an unbundling of the charges that heretofore have been bundled into a single charge. Public Counsel expects a dramatic increase in customer confusion from both of these changes. As a result, Public Counsel will need to significantly increase its proactive consumer education efforts. Public Counsel believes that a full time employee with a background in consumer education and outreach will be necessary to handle these new duties, which will include educating consumers in how to compare offers from different providers, evaluating the reliability of different providers, and publishing educational materials.

Additionally, Public Counsel strongly believes it will be necessary to establish a toll-free number to handle the increased call volume expected from consumers who are seeking more information, are confused, have had problems or been victims of fraud or unfair practices. Public Counsel will need to hire a full time consumer services representative to handle the expected call volume. The single 800 toll-free consumer complaint line is figured at the State's contracted rate of \$0.0928 per minute for intrastate calls based on an 8 hour day for 52 weeks.

Because Public Counsel already has a low support staff/professional ratio of 1/6, the addition of these full time positions will require the addition of a support staff position. Given the high volume and the inherently technical nature of the material that the office deals with, this ratio is very low.

The Office of the Public Counsel would require a \$70,000 increase in its annual consulting budget, as well as a one-time increase of \$200,000 for **each** of the first two years this law is in effect.

Sections 393.806.2 will require an extensive cost allocation study for each investor owned utility. Public Counsel does not currently perform such cost allocation studies. Because this work is so specialized, and because the requisite expertise is needed for only one to two years, Public Counsel believes that the use of a consultant to prepare these studies will be cheaper in the long run than training several full time employees over and above those discussed above. Public Counsel anticipates that the cost of these **cost allocation studies** for each of the five investor owned utilities will be \$40,000. It is assumed that the utilities will be unbundled in one to two

ASSUMPTION (continued)

years, therefore, for purposes of this fiscal note it is assumed that the costs will be split evenly over two years.

Section 393.806.2 will require a complex contested case for each electric utility to determine net transition costs. These will be very complex proceedings requiring consultants with great deal of expertise in a narrow field, and with the ability to do a high level of specialized modeling. Because this work is so specialized, and because the requisite expertise is needed for only two years, Public Counsel believes that the use of a consultant to do this analysis and testify in these cases will be cheaper in the long run than training several full time employees over and above those discussed above. Public Counsel anticipates that its cost to participate in the **transition cost (stranded costs) studies** of the five investor owned utilities will also be \$40,000 for each utility.

Again, it is assumed that the utilities will be unbundled in one to two years, therefore, for purposes of this fiscal note it is assumed that the \$400,000 costs will be split evenly for the two studies between the first two years.

As noted above, there will also be a need for an annual increase in Public Counsel's consulting budget of \$70,000. This increase will allow Public Counsel to use consultants to become involved in monitoring and participating in the governance of regional transmission groups or independent system operators. It will also allow Public Counsel to formulate and present evidence in proceedings to true-up any transition cost estimates. It will also allow Public Counsel to monitor market transactions (including the activity of aggregators combining smaller loads of residential and commercial customers) to ensure that market power does not exist, as well as to ensure that effective competition is developing. Should problems be found in these areas, Public Counsel will be able to use consultants to determine appropriate remedial or mitigation measures.

Oversight assumes this proposal does not require OPC to establish a toll-free complaint line, and therefore, OPC would not have a need for the Consumer Services Specialist or other associated costs.

OPC states that their agency already has a low support staff/professional ratio of 1/6, and the addition of 5 full-time positions would require the addition of a Clerk Typist. **Oversight** assumes this proposal would require a Public Utility Engineer, a Public Utility Economist, and a Consumer Education/Outreach Specialist, and would not require additional support staff for these employees. Additional support staff, as well as the establishment of a toll-free complaint line, may be requested through the normal budgetary process. Oversight further assumes the

ASSUMPTION (continued)

additional FTE could be located using existing space and has not included rental costs in the fiscal impact specifications below.

The **Department of Economic Development, Public Service Commission (PSC)** assumes that implementation of this legislation will require a total of 8 FTE, including one Regulatory Economist III, one Utility Regulatory Engineer I, two Consumer Services Specialist Is, one Legal Counsel, two Regulatory Law Judges, a Clerk Steno III, and related expense and equipment. Also, it would be necessary to contract with three outside consultants at an estimated cost of \$200,000 in both fiscal years FY 01 and FY 02, and \$300,000 in FY 03, depending on the effective date of the bill. One consultant would be responsible for the development of stranded cost methods and the application of those methods to the various utilities, including a detailed review of the utility filings over the three-year implementation period. Stranded costs issues addressed by this consultant will include recommendations on methods for measuring stranded cost, with the possibility of estimating future market prices for electricity. After developing specific recommendations on measuring stranded costs, the consultant will be required to apply those measures to each of the utilities. The second consultant would be responsible for the development of market power analyses and the design of a market power monitoring system. This will include suggesting market power criteria and indices, and recommending methods for mitigation of potential market power abuse. In addition, this consultant may recommend rules and regulations for electric industry participants, recommend criteria and guidelines needed to verify and monitor that retail electric companies are functionally disaggregated, recommend criteria and guidelines needed to verify competitive electricity providers are operationally and financially separate. Finally, as a part of the market power determinations, this consultant will review transmission capacity in Missouri and plans for addressing transmission needs and provide assistance in oversight of the creation and monitoring of a statewide pool and coordinate with the relevant independent system operators (ISOs) or their functional equivalent. A third consultant will be needed in the year just prior to implementation to address specific issues related to load profiling and classification of consumer loads for purposes of scheduling electricity from alternative retail providers. These recommendations will include details on scheduling procedures to be used to coordinate between retail generation service providers and the distribution companies and settlement procedures when schedules and actual use are not in balance. Based on information in responses to previous similar legislation, **Oversight** has adjusted consultant fees to \$200,000 each year for FY 01 and FY 02.

The additional FTE would need to perform the following functions: Regulatory Economist III will implement electric company rate unbundling; develop competitive electricity provider access rates and conditions of service; participate in the development of a market power data collection and monitoring system; be responsible for ongoing market power monitoring; develop

ASSUMPTION (continued)

terms and conditions for distribution utility access rates; develop with the assistance of the Utility Regulatory Engineer I the specific terms and conditions of rules and regulations that establish the business relationship of electric industry participants; participate in the development of criteria and guidelines to quantify competitive transition costs; participate in rate cases relating to the setting of competitive transition costs; and engage in oversight of the creation and monitoring of a statewide pool and ISOs or their functional equivalents.

Utility Regulatory Engineer I will develop criteria for the assessment of the technical ability of competitive electricity providers that seek to be licensed by the Commission; assess whether such license applicants meet financial, operational and other established criteria; render opinions as to the adequacy of their technical ability to provide electric service in Missouri; establish criteria for the assessment of whether affiliate competitive electricity providers are functionally separate from distribution utilities; perform compliance reviews that determine whether distribution utilities are maintaining functions separate from affiliate competitive electricity providers; investigate inquiries and complaints regarding whether distribution utilities are maintaining functions separate from affiliate competitive electricity providers; report the results of these inquiries and investigations; develop the specific terms and conditions for distribution utilities' access rates related to operations and services; assist in the development of specific terms and conditions in rules that establish and monitor the business relationships for electric industry participants; perform reviews to ensure electric industry participants' compliance with the provisions of other Commission rules; review and evaluate reported transmission capacity in Missouri and plans for addressing transmission needs; and participate in market power monitoring.

Legal Counsel will handle legal issues related to implementation of electric unbundling and enforcement of new rules and regulations; handle legal issues related to initial cases to develop unbundled rates and subsequent cases related to the ongoing rate activity caused by distribution utilities' access rates and recovery of competitive transaction losses; handle legal issues related to competitive electricity provider licensing; handle legal issues related to electric company functional disaggregation/operational separation/financial separation; handle legal issues related to market power monitoring; handle legal issues related to rules for electric industry competitive electricity providers' business relationships; handle legal issues related to creation and monitoring of statewide pool; investigate pending legal actions respecting, and compliance with, legal requirements by applicants seeking to operate as competitive electricity providers; and provide legal analysis and support relating to creation and monitoring of ISOs or their functional equivalents.

Two Consumer Services Specialist Is will review and respond to inquiries and complaints in

ASSUMPTION (continued)

regard to competitive transition charges; receive and handle complaints of unauthorized switching of retail customers' generation service; receive and handle complaints regarding solicitation by or operations of unlicensed competitive electricity service providers and receive and handle complaints of improper billing practices and customer service, including possible improper disclosure of customer information.

Regulatory Law Judges will conduct hearings and draft decisions for Commission review and approval relating to the activities set out above.

Clerk Steno III will provide support to the two Regulatory Law Judges.

The PSC assumes the proposed legislation could affect total state revenues due to the collection of taxes on a different level of electric service revenues relating to the generation of electricity.

Oversight assumes the PSC would increase the assessment to utilities and that appropriation would be made, resulting in a net effect of \$0.

Officials from the **City Utilities of Springfield (SPG)** assume it is impossible to forecast the fiscal impacts on the community from such a proposal, given the high degree of uncertainty on how the market will ultimately develop and the degree of market power that different players will be able to exert in a restructured environment. The SPG noted the Restructuring and Competition Task Force (RCTF) at City Utilities has been studying the possible effects of retail customer choice on its customers, its utility and the city for over two years.

Officials from the **Office of the Secretary of State (SOS)** assume the proposed legislation would require the SOS to act as agent for service of process for competitive electricity providers licensed in the state. It could result in unknown costs, but would be expected to be insignificant. Based on the experience of the SOS office acting as service agent for other business entities, the time required to process such an event of service is approximately .75 to 1.0 hours. Each event of service requires the expenditure of approximately \$6 - \$8 in certified mail costs. It is uncertain how many such entities will be required to use the SOS in this capacity. If a sufficient number of entities are involved, or if those entities that are involved are the subject of frequent litigation, additional FTE (and associated E&E) might be required to handle the service of process. While this bill alone would not require the SOS to hire additional personnel, the SOS assumes the cumulative effect of this and other bills imposing additional duties on the Business Services Divisions of the SOS may, in the aggregate, necessitate additional staff.

Officials from **Columbia Water and Light Department (COL)** stated it would be very difficult

ASSUMPTION (continued)

to provide an accurate fiscal impact for this proposal. The proposal would leave municipal utilities out of competition unless the municipality “opts in”. If Columbia were to remain “out”, there would be no fiscal impact. On the other hand, if Columbia is pressured by its customers to “opt in”, the fiscal impact would depend upon market prices. There is the potential for the City to lose several million dollars in utility revenues. The actual amount will depend upon the timing of “opting in” and the market prices at such time. The proposal would profoundly affect the manner in which electric energy is bought and sold and how the COL does business.

This proposal will profoundly affect the manner in which electric energy is bought and sold and how the Columbia Water and Light does business. Chances are good there would be a loss of customers and revenue, with costs exceeding a million dollars a year. These costs could have a substantial impact on the budgets and operations of both Columbia Water and Light and the local government.

Officials from the **Independence Power and Light (IND)** did not respond to our fiscal impact request.

Oversight assumes this proposal would result in new requirements that all utilities would have to meet, resulting in unknown costs.

Oversight assumes IF the requirements of this proposal would result in a change in utility rates, state government agencies, local governments and small businesses could be fiscally impacted.

<u>FISCAL IMPACT - State Government</u>	FY 2001	FY 2002	FY 2003
	(10 Mo.)		
GENERAL REVENUE FUND			
<u>Costs - Department of Economic Development</u>			
<u>Office of the Public Counsel (OPC)</u>			
Personal Service (3 FTE)	(\$121,487)	(\$149,429)	(\$153,165)
Fringe Benefits	(37,357)	(\$45,949)	(\$47,098)
Expense and Equipment	<u>(284,469)</u>	<u>(\$274,324)</u>	<u>(\$76,555)</u>
Total <u>Costs</u> - OPC	(\$443,313)	(\$469,702)	(\$276,818)
ESTIMATED NET EFFECT			
ON GENERAL REVENUE FUND	<u>(\$443,313)</u>	<u>(\$469,702)</u>	<u>(\$276,818)</u>

<u>FISCAL IMPACT - State Government</u>	FY 2001	FY 2002	FY 2003
	(10 Mo.)		
PUBLIC SERVICE COMMISSION FUND			

Costs - Public Service Commission (PSC)

Personal Service (8 FTE)	(\$222,374)	(\$273,522)	(\$280,360)
Fringe Benefits	(68,380)	(84,108)	(86,211)
Expense and Equipment	<u>(293,540)</u>	<u>(261,646)</u>	<u>(63,494)</u>
Total <u>Costs</u> - PSC	(\$584,294)	(\$619,276)	(\$430,065)

Revenue-PSC

Assessment to utilities	\$584,294	\$619,276	\$430,065
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**ESTIMATED NET EFFECT
 ON PUBLIC SERVICE
 COMMISSION FUND**

\$0 \$0 \$0

FISCAL IMPACT - Local Government

FY 2001 FY 2002 FY 2003
 (10 Mo.)

LOCAL GOVERNMENT

Costs for municipals to meet
 additional requirements

(Unknown) (Unknown) (Unknown)

Loss of tax revenue

\$0 to \$0 to \$0 to
 (Unknown) (Unknown) (Unknown)

**ESTIMATED NET EFFECT ON
 LOCAL GOVERNMENT**

(Unknown) (Unknown) (Unknown)

FISCAL IMPACT - Small Business

This proposal would fiscally impact small businesses as it would allow each to choose their own suppliers of electric generation services. In addition, small businesses who supply electric generation services would be fiscally impacted.

DESCRIPTION

RETAIL ELECTRIC SERVICE CUSTOMER CHOICE - This act provides that retail electric generation services shall be provided in a competitive market. The Public Service Commission

shall determine the commencement date after which all retail electric consumers, except those in areas exempted by the act, shall be permitted to choose their supplier or suppliers of electric generation services. The commencement date shall be the later of January 1, 2004, or the date that the Commission determines that all provisions of the act which must be implemented prior to commencement are implemented. Retail service options shall include: service from a Competitive Electricity Provider (CEP) under a standard offer; an individually negotiated bilateral contract with an CEP; purchase through a market aggregator who will negotiate directly with a CEP on behalf of the consumer; or purchase from an incumbent electric utility as a default provider or as the supplier of last resort.

LICENSURE OF COMPETITIVE ELECTRICITY PROVIDERS - All CEPs shall obtain and hold a license from the Commission in order to do business in the state. The act contains licensing requirements which include: proof of financial and operational fitness; an agreement to collect and remit applicable state and local sales and use taxes and local business taxes; an agreement to report certain customer data; a requirement to sell at least a certain fraction of power to residential customers; and a requirement that the rates to a customer shall not exceed the standard offer of the local distribution utility (LDU) providing service to such customer. The act provides for the review and approval of license applications. A license shall be valid for five years and may be renewed. The Commission may suspend or revoke a license for failure to meet one or more requirements of a license.

MUNICIPAL AND COOPERATIVE OPT IN - Municipally-owned utilities and rural electric cooperatives may elect to participate in retail competition. Exclusive generation service rights shall no longer apply to those municipally owned utilities and rural electric cooperatives which elect to participate in retail competition. The Commission shall not have rate authority over municipal and coop transmission and distribution service. Municipalities may elect to participate by vote of the governing body or upon approval by voters of a proposal to participate. Municipal utilities shall provide open access in competitive annexed regions at same unbundled rates established for municipal customers who do not have choice. Municipal utilities competing in the city only shall provide open access at same unbundled rates established for customers who do not have choice. Retail choice shall continue in an area annexed by a municipality not participating in retail competition.

Cooperatives may elect to participate upon a vote of the Board of Directors. Competing cooperatives shall notify the Commission, and competition shall begin for such cooperatives 30 days following such notice. Non-competing cooperatives shall not sell generation in territories

DESCRIPTION (continued)

served by another utility when competition starts, except as allowed under current law, unless the Commission determines it to be in the public interest.

SEPARATION OF ASSETS/MARKET POWER - Existing electric utilities which provide generation and other services shall functionally separate the competitive and non-competitive services on or before 6 months prior to the commencement date, except that competing municipal utilities and cooperatives shall functionally separate prior to the date they begin to compete. Local Distribution Utilities (LDUs) and other companies may own transmission facilities. Affiliates of electric utilities may own electric generation assets and may sell generation directly to a retail consumer.

The Commission shall continue to investigate the development of competition and the degree of concentration of market power and shall implement remedies to promote a competitive market. The Commission shall investigate the impact of mergers and other disposition of assets which may affect development of retail competition. The Commission shall monitor the market to ensure non-utility generators do not exceed 20% market share in a destination market, and to ensure that, after five years of retail choice, at least 75% of load in an incumbent's service territory can be served by generation not owned by the utility or its affiliate.

In case of merger, acquisition or creation of new company, successor shall recognize and bargain with union representing employees of incumbent utility and refrain from making unilateral changes to terms and condition of employment. Any successor employer shall remain bound to collective bargaining agreements as permitted by federal law.

ACCESS TO TRANSMISSION AND DISTRIBUTION FACILITIES - All Missouri electric utilities shall provide access to their transmission and distribution facilities, ancillary services and other available services to any buyer or seller on a nondiscriminatory and comparable basis. The Commission shall ensure that no CEP has an unfair advantage in offering access to and pricing transmission and distribution services. The Commission shall establish, by rule, standards of conduct governing the relationships among the various business functions conducted by electric utilities. The LDU shall have an obligation to connect and provide delivery of electric service to all retail consumers within its current retail service territory on nondiscriminatory terms and conditions.

RELIABILITY - The state, the Commission and utilities shall work with the FERC and other entities to establish Regional Transmission Organizations (RTOs) or their equivalents to operated the transmission system. Each electric utility shall join an RTO by July 1, 2002, or file a plan with the Commission to provide for independent operation of its transmission system in a

DESCRIPTION (continued)

manner which provides open access and ensures reliability. The act specifies certain requirements for an RTO. All competitive electricity providers shall provide proof of adequate capacity reserve to the ISO or purchase such services from the RTO. Generation plant shall be

subject to PSC jurisdiction with regard to safety.

RATES FOR TRANSMISSION AND DISTRIBUTION - The Commission shall establish just and reasonable rates for unbundled local distribution services. Each electric utility shall file unbundled service tariffs to provide services to all eligible purchasers on a nondiscriminatory basis. The Commission shall have jurisdiction over all aspects of transmission rates and services not subject to the exclusive jurisdiction of the FERC. The Commission may establish performance-based or incentive rate mechanisms and rate caps on electric services as part of the rate-making process to encourage mitigation of transition costs.

UNBUNDLED BILLS AND CONSUMER PROTECTION - The Commission shall adopt rules requiring the separation of charges for generation, distribution and transmission services, transition costs and taxes on retail customer bills. The Commission shall adopt rules regulating billing, complaints, billing disputes and change of service or provider. The Commission shall, prior to the commencement date, carry out an educational program to inform customers regarding changes in provision of service and requirements regarding disclosure of information by sellers and to help customers make informed choices. The Commission shall establish standards by which CEPs may claim to offer generation from renewable sources or "green power".

TRANSITION OR "STRANDED" COSTS - Each utility shall file a transition plan within 6 months of effective date. The Commission shall approve a plan for each utility within nine months of the filing date or filing deadline, whichever is earlier. Electric utilities shall be given a reasonable opportunity to recover from retail consumers the portion of verifiable net competitive transition costs (CTCs) that the Commission determines is eligible for recovery. Excess earnings shall not be used to reduce CTC's after commencement of competition, but may be applied at any time prior to commencement. The recovery of CTCs shall be through a nonbypassable, nondiscriminatory, appropriately structured competitive transition adjustment (CTA) that is fair to all retail consumers, limited in duration and consistent with the promotion of fully competitive markets, and unless otherwise determined by the Commission, shall be through a fixed per kilowatt hour charge on all sales. Charges to recover transition costs shall only apply to consumers within an electric utility's former retail service territory.

Transition plans shall establish the CTC, CTA and transition period. The transition period shall not exceed nine years and CTAs shall only apply during the transition period. The CTA shall be

DESCRIPTION (continued)

adjusted so that default customer's total rates are capped for five years at rates when competition starts. Default customers shall receive the same transmission and distribution rates as customers who choose another generation provider.

Net transition costs shall not include transmission and distribution assets and shall be reconciled to actual electricity market conditions from time to time. Transition costs may include adjustments approved by the Commission for certain unforeseen, required expenditures.

Costs arising from prudently-incurred power purchase contracts or associated with any renegotiation of the contracts shall be eligible for recovery in transition cost recovery charges. Transition cost charges shall not be recoverable for changes in usage occurring in the normal course of business. Electric utilities shall have the duty to take all reasonable measures to mitigate transition costs according to a process established in the act.

STATEWIDE POOL/CHOICE OF PROVIDER - Distribution utilities serving default customers and those acting as provider of last resort shall buy generation at lowest available price. The act establishes a statewide pool as an optional means to help LDUs serve default customers and serve as the provider of last resort for electric generation services in areas with retail choice. The statewide pool shall be governed by a Board of Directors which shall be appointed by the Commission and shall consist of at least nine and no more than fifteen members. Each member of the Board shall meet all membership requirements established by the Commission and shall not have a substantial financial interest in electric generation, transmission or distribution service.

CEPs shall provide customer lists to LDUs. LDUs shall provide load forecasts for entire load served. The statewide pool shall arrange to purchase generation for the load not served by CEPs. The statewide pool shall be terminated 5 years following commencement of competition, if the pool serves less than ten percent of residential customers unless the Commission determines the pool will still be needed.

The Commission shall set a date for choice of CEP. Customers not choosing another provider shall default to the LDU. After that date, customers may switch provider. A switching fee may be charged for customers who switch after a short time from one provider to another. LDUs may recover necessary costs through a service charge. The Commission may set conditions to discourage excessive switching.

TAXATION - This act makes changes to the provisions enacted in Senate Bill 627 from the 1998 legislative session, which required sellers of electricity and gas to be certified by the Commission

DESCRIPTION (continued)

and to file agreements which the sellers entered into, with either the distributor or political subdivision, for the payment of all gross receipt taxes or franchise fees owed. This act clarifies that the sales at issue will be deemed to be local sales even if title passes outside the state, and

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that a retail consumer will not be considered a seller. Electric and gas corporations shall file tariffs to comply with the act.

The act also extends the same framework to sales and use tax, requiring sellers of electricity and gas to file, with the Commission, agreements entered into with either the distributor or political subdivision to collect and remit all sales and use taxes. Distributors and political subdivisions are prohibited from providing energy services to any person unless the seller has been certified by the Commission and has filed its agreements. Sellers are required to waive all rights to challenge the validity of any agreement and of any right to a refund. A declaratory judgment action is authorized. Legal action challenging the validity of any agreement suspends that agreement until a final court judgment is made; if a court judgment invalidates the agreement structure, energy services may only be provided upon a showing of public convenience and necessity by the Commission.

This act is similar to SB 476 from 1999.

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

This proposal could affect Total State Revenues.

SOURCES OF INFORMATION

Office of Administration-Division of Purchasing and Materials Management
Department of Revenue
Department of Natural Resources
Department of Economic Development
Office of Public Counsel
Public Service Commission

MLW:KLM:LR:OD:005 (9-94)

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City Utilities of Springfield
Office of the Secretary of State
Columbia Water and Light

NOT RESPONDING:

Independence Power and Light

A handwritten signature in black ink, appearing to read "Jeanne Jarrett". The signature is stylized with a large initial "J" and a cursive "e" at the end.

Jeanne Jarrett, CPA
Director
February 21, 2000