COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. NO. 4131-01
BILL NO. HB 1842
SUBJECT: Utilities; Public Service Commission
TYPE: Original
DATE: March 29, 2000

FISCAL SUMMARY

ESTIMATED NET EFFECT ON STATE FUNDS			
FUND AFFECTED	FY 2001	FY 2002	FY 2003
General Revenue	($243,313)	($269,702)	($376,818)
Public Service Commission Fund*	$0	$0	$0
Total Estimated Net Effect on All State Funds	**($243,313)**	**($269,702)**	**($376,818)**

*** Assumes costs of $1,224,361, $1,331,128 and $1,160,201 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 All 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 10 pages.

FISCAL ANALYSIS

ASSUMPTION

In a similar previous proposal, officials from the **Office of Administration - Division of Purchasing and Materials Management (COA)** assumed this proposal would not fiscally impact their agencies. The COA assumed 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 Revenue (DOR)** and the **Office of Administration - Division of Design and Construction (D&C)** assume the proposed legislation would have no fiscal impact on their agencies.

Officials from the **Department of Natural Resources (DNR)** assume for the period addressed by this fiscal note, any increased needs will be handled with existing FTEs. 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), NOX (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.

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.

ASSUMPTION (continued)

Section 393.984 permits new entrants in the business of providing electricity to end users and 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.

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. Participation in and educational work group will be required by Section 393.987.

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

ASSUMPTION (continued)

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 $100,000 for **each** of the first two years, beginning January 1, 2003.

Sections 393.972 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 years, therefore, for purposes of this fiscal note it is assumed that the costs will be split evenly over 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 as envisioned in Section 393.990. 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.

ASSUMPTION (continued)

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 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 17 FTE, including one Regulatory Engineer I, one Regulatory Economist III, two Legal Counsels, four Consumer Services Specialist Is, two Regulatory Law Judges, one Regulatory Auditor V, one Regulatory Auditor IV, two Regulatory Auditor IIIs, one Public Utility Financial Analyst III, one Utility Management Analyst III and one Clerk Steno III, and related expense and equipment. Also, it would be necessary to contract with outside consultants. Consultant expense in Year 1 of $300,000 would be to: 1) assist in the development of the initial Commission rules and regulations to protect residential and small nonresidential customers against unfair or unnecessarily intrusive billing practices in the marketing, offering, or provision of electric supply services, and to ensure fair billing practices; 2) assist in the initial development of procedures to establish and operate a database of the list of customers who object to receiving telephone solicitations; 3) to assist in the development of rules and regulations governing the distribution of approved consumer education materials and uniform disclosure formats; and 4) to assist in the development of a recommendation related to the initial rules establishing the detail, form, and required contents for application of a certificate of service authority. These expenditures will include development of recommendations as to the standards and guidelines required to determine that an applicant's employees possess the required level of knowledge and abilities regarding the installation, operation, and maintenance of electric supply service facilities. Consultant expense in Year 2 of $200,000 would be to: 1) assist in the development of an initial recommendation to the Commission regarding the functional separation rules that are needed to promote the development of an efficient and effective competitive market for electric supply services. Three of the new FTE will provide the assistance. 2) to assist in the development of an initial recommendation of the accounting rules needed to prevent cross subsidization between the services offered by any electric supplier and those offered by its affiliates; and 3) to develop the annual reporting requirements for all electric service suppliers, including all data required to prepare the report for the general assembly. Consultant expense in Year 3 of $50,000 would be for Washington, D.C. counsel expenditures regarding Missouri electric restructuring matters that require approval of the Federal Energy Regulatory Commission. NOTE: Consultant expenditures

<u>ASSUMPTION</u> (continued)

in Years 1 and 2 also included Washington, D.C. counsel expenditures.

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 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.

In a similar previous proposal, officials from **Columbia Water and Light Department (COL)** stated it would be very difficult 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. 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 **Kansas City Manager (KCM)** assume the utility restructuring measures would not have a direct financial impact on the City because it is contingent on the establishment of a consumption tax that will reach to all users of utilities, from whatever source the commodity is obtained.

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

ASSUMPTION (continued)

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.

FISCAL IMPACT - State Government	FY 2001 (10 Mo.)	FY 2002	FY 2003
GENERAL REVENUE FUND			
Costs - Department of Economic Development Office of the Public Counsel (OPC)			
Personal Service (3 FTE)	($121,487)	($149,429)	($153,165)
Fringe Benefits	(37,357)	($45,949)	($47,098)
Expense and Equipment	(84,469)	($74,324)	($176,555)
Total Costs - OPC	($243,313)	($269,702)	($376,818)
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	**($243,313)**	**($269,702)**	**($376,818)**
PUBLIC SERVICE COMMISSION FUND			
Costs - Public Service Commission (PSC)			
Personal Service (17 FTE)	($604,099)	($743,339)	($761,922)
Fringe Benefits	(185,760)	(228,577)	(234,291)
Expense and Equipment	(434,502)	(359,212)	(163,988)
Total Costs - PSC	($1,224,361)	($1,331,128)	($1,160,201)
Revenue-PSC			
Assessment to utilities	$1,224,361	$1,331,128	$1,160,201
ESTIMATED NET EFFECT ON PUBLIC SERVICE COMMISSION FUND	**$0**	**$0**	**$0**

FISCAL IMPACT - Local Government	FY 2001 (10 Mo.)	FY 2002	FY 2003
LOCAL GOVERNMENT			
Costs for municipals to meet additional requirements	(Unknown)	(Unknown)	(Unknown)
Loss of tax revenue	$0 to (Unknown)	$0 to (Unknown)	$0 to (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

This bill is the Electric Industry Restructuring and Customer Choice Act. Beginning December 31, 2004, retail customers of electric utilities or electric cooperatives will be able to choose their electric suppliers, as long as comprehensive tax reform replacing certain utility taxes is in effect. Otherwise, customer choice will begin 6 months after the date that tax reform takes effect.

The bill prohibits the Public Service Commission (PSC) from increasing or decreasing an electric utility's rates prior to January 31, 2008, with certain exemptions. By July 1, 2003, electric utilities and cooperatives must file specified rate schedules showing separate charges for distribution, electric supply services, decommissioning costs, and transition costs. The bill states that an electric utility is entitled to a fair opportunity to recover any transition costs incurred as a result of implementation of the bill.

The bill lists the rights of retail customers, including nondiscriminatory access to service and the ability to aggregate with other customers, and authorizes the PSC to adopt rules protecting residential and small nonresidential customers against unfair practices.

Electric utilities, rural electric cooperatives, and municipal utilities will be the exclusive

DESCRIPTION (continued)

distributors of electric service in the state. Electric utilities will not have an obligation to build new generation plants to supply retail customers or to supply them from their own generation facilities. The bill outlines what electric suppliers are authorized to do, including entering into contracts with retail customers and establishing terms and conditions of service. Also outlined are the obligations of electric suppliers, such as maintaining adequate sources of supply and other reserves and complying with applicable safety and environmental regulations.

The bill authorizes the PSC to adopt rules on functional separation of a vertically integrated electric utility's distribution operations from its generation operations as necessary to promote the development of a competitive market for electric supply services. The bill regulates the provision of essential facilities or services by a utility or cooperative providing distribution service to electric suppliers. The PSC is authorized to adopt uniform accounting rules for all electric suppliers designed to prevent cross-subsidization between suppliers and their affiliates and to require any transmission--owning utility or electric cooperative to join an independent system operator (ISO) or regional transmission organization (RTO) to facilitate the development of competition.

Any electric supplier, other than utilities or cooperatives providing tariffed electric supply service or municipal utilities that have elected to participate in competition, is required to obtain a certificate of service authority from the PSC. The bill describes application procedures and the conditions on which the PSC will approve applications.

The PSC is required to implement and maintain through January 1, 2008, a consumer education program to provide residential and small commercial retail customers with information to help them understand their service options in a competitive market and their rights and responsibilities. The bill also requires the PSC to form a working group that will make recommendations to the PSC on how to implement the education program and outlines the topics to be covered by the educational materials. The General Assembly will approve up to $300,000 per year to pay for expenses associated with the consumer education program and the working group.

The bill requires the PSC to monitor and analyze market patterns and report to the General Assembly by December 31, 2005, and once every 2 years until 2014 regarding any barriers to entry to or participation in the market for electric supply services. Also outlined are requirements for adequate employee skill and service; and recognition of collective bargaining agreements of certain utilities in the case of a significant change in operations.

DESCRIPTION (continued)

The bill authorizes utilities to use securitization to mitigate the transition costs and to manage costs without increasing rates, and it outlines procedures for issuing transitional funding orders.

A municipal utility will not sell electric supply services to retail customers outside of its service area unless its governing body elects to participate in competition. The bill gives the PSC jurisdiction to hear and dispose of complaints against electric suppliers involved in certain practices.

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
Office of Administration-Division of Design and Construction
Department of Revenue
Department of Natural Resources
Department of Economic Development
Office of Public Counsel
Public Service Commission
City Utilities of Springfield
Columbia Water and Light
Kansas City Manager

NOT RESPONDING: Independence Power and Light, City of St. Louis

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Director
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