

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 821-03
Bill No.: SB 499
Subject: Public Service Commission; Consumer Protection
Type: Original
Date: April 2, 2001

FISCAL SUMMARY

ESTIMATED NET EFFECT ON STATE FUNDS			
FUND AFFECTED	FY 2002	FY 2003	FY 2004
General Revenue	(\$469,790)	(\$484,041)	(\$289,405)
Public Service Commission *	\$0	\$0	\$0
Total Estimated Net Effect on <u>All</u> State Funds	(\$469,790)	(\$484,041)	(\$289,405)

* Assumes costs of \$201,689 in FY 04 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 2002	FY 2003	FY 2004
None	\$0	\$0	\$0
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2002	FY 2003	FY 2004
Local Government	(Unknown)	(Unknown)	(Unknown)

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 12 pages.

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of State Courts Administrator** assume the proposed legislation would have no fiscal impact on their agency.

Officials from the **Department of Revenue** assume the proposed legislation would have no administrative impact on their agency. Officials noted that the revenue impact is unknown.

Officials from the **Office of Administration - Division of Purchasing and Materials Management** assume this legislation provides 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. At this time, it is difficult to determine if additional resources will be needed. Also, Chapter 34, which defines purchasing requirements for the State, requires "supplies" in excess of \$3000 to be purchased based on competitive bidding. However, the definition of "supplies" in section 34.010 RSMo specifically excludes "utility services regulated under Chapter 393". Officials are not sure 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 **Office of Secretary of State** assume this bill establishes retail electric customer choice. The Public Service Commission will promulgate rules to implement this bill. Based on experience with other divisions, the rules, regulations and forms issued by the Public Service Commission could require as many as approximately 42 pages in the *Code of State Regulations*. For any given rule, roughly half again as many pages are published in the *Missouri Register* as in the *Code* because cost statements, fiscal notes and the like are not repeated in *Code*. These costs are estimated. The estimated cost of a page in the *Missouri Register* is \$23.00. The estimated cost of a page in the *Code of State Regulations* is \$27.00. Therefore, the estimated costs for FY 02 are \$2,583. The actual costs could be more or less than the numbers given. The impact of this legislation in future years is unknown and depends upon the frequency and length of rules filed, amended, rescinded and withdrawn.

Oversight assumes the SOS could absorb the costs of printing and distributing regulations related to this proposal. If multiple bills pass which require the printing and distribution of regulations at substantial costs, the SOS could request funding through the appropriation process. Any decisions to raise fees to defray costs would likely be made in subsequent fiscal years.

Officials from the **Department of Natural Resources** assume any increase in air emissions, wastewater emissions and additional ash generated for disposal will continue to require

ASSUMPTION (continued)

appropriate permits that must consider cumulative impacts. Increases in air emissions will require additional controls for air and water contaminants such as SO₂, NO_X and mercury. Use of alternative fuels, such as 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.

In response to similar legislation (SB 819) from the 2000 session, DNR assumed 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.

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.

Officials from the **Department of Economic Development - Office of Public Counsel** assume they would require an additional engineer, an additional economist, a public information coordinator, a consumer services specialist, and one additional support staffer to handle the additional duties required by this bill. Officials noted 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 under Section 386.710 will cease.

ASSUMPTION (continued)

Section 393.1106 permits new entrants in the business of providing electricity to end users. Section 393.1139 requires these players to be licensed 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.

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 at least one full time consumer services representative to handle the expected call volume.

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 deal with, this ratio is extremely 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.

Section 393.1115.4 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.

Section 393.1124 will require a complex contested case for each electric utility to determine net transition costs. These will be very complex proceedings requiring consultants with a 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 four 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

ASSUMPTION (continued)

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 problems do 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.

It should also be noted that several rulemaking proceedings would be required by Sections 393.1127.1 (consumer disclosures), 393.1127.3 (slamming, privacy, complaints regarding unauthorized switching of providers, billing practices, dispute resolution), 393.1127.4 (disconnect and reconnect rules), and 393.1130 (standards of conduct). Although these rulemaking proceedings will require significant additional work on behalf of Public Counsel staff, it is assumed that current employees would be able to manage the additional responsibility of preparing recommendations and advocating for the public in these matters.

The need to provide cubicles, for the requested FTEs, is listed in the fiscal impact request. Only four cubicles are requested as there is a space available for the additional clerical position. Also listed is necessary equipment, i.e. computers and software, another laser printer to serve additional printing requirements, a copy machine and another facsimile machine. The single 800 toll-free consumer complaint line is figured at the State's contracted rate of \$0.0835 per minute for intrastate calls based on a conservative estimate of 30 calls per day, assuming for an average of 10 minutes each, for a 5 day work week, 52 weeks annually. The need for additional expert witness fees is set forth in detail in the preceding paragraphs. Also set out in detail above are the duties of the Public Utility Engineer and Public Utility Economist, Public Information Coordinator and the Consumer Services Specialist I.

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 Public Information Coordinator, 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 would be located in existing space and therefore has not included costs for a copy machine or fax machine in the fiscal impact specifications below.

ASSUMPTION (continued)

Officials from the **Department of Economic Development - Public Service Commission** (PSC) assume this bill will impose new casework on the Adjudication Division. Because the law judges are already fully engaged in processing the existing workload, an additional FTE is required. This FTE will be filled by a Paralegal who will relieve the judges of a portion of their existing workload, thus creating capacity to handle the additional casework that this bill will create. Experience with deregulation of telecommunications suggests that the need for the new FTE will be permanent beginning July 1, 2003.

Consultant Expense: The consultant would be needed to monitor and assist in development of rules for market power, reports of market power existence, and assist in hearings on market power. Additionally, the consultant would be needed to assist in the development of various rules required in this bill. The estimated expenses are \$150,000 per year beginning in 2003 to prepare for the effective time when customers can choose on July 1, 2004.

Oversight assumes the one (1) FTE requested by the PSC could be located in existing space and did not include office space rental costs in the fiscal impact specifications below.

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 of Columbia** assume this bill currently contains provisions such that the bill does not apply to municipally owned utilities. If such provisions are in a final bill, the fiscal impact could be very small. However, if the bill is changed, the impact could be significant. Officials noted it would be difficult to make any estimates until the bill reaches final form.

Officials from the **City Utilities of Springfield** assume that it is impossible to estimate the fiscal impact on their utility at this time. Officials noted that the Restructuring and Competition Task Force (RCTF) at City Utilities has spent hundreds of worker-hours studying the potential impact of restructuring.

Officials from the **Independence Power and Light (IND)** and the **City of St. Louis (STL)** 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 2002 (10 Mo.)	FY 2003	FY 2004
GENERAL REVENUE FUND			
<u>Cost</u> - Department of Economic Development (OPC)			
Personal Service (3 FTE)	(\$129,160)	(\$158,867)	(\$162,839)
Fringe Benefits	(\$43,049)	(\$52,950)	(\$54,274)
Expense and Equipment	<u>(\$297,581)</u>	<u>(\$272,224)</u>	<u>(\$72,292)</u>
Estimated Net Effect on GENERAL REVENUE FUND	<u>(\$469,790)</u>	<u>(\$484,041)</u>	<u>(\$289,405)</u>
PUBLIC SERVICE COMMISSION FUND			
<u>Cost</u> - Department of Economic Development (PSC)			
Personal Service	\$0	\$0	(\$32,824)
Fringe Benefits	\$0	\$0	(\$10,940)
Expense and Equipment	<u>\$0</u>	<u>\$0</u>	<u>(\$157,925)</u>
Total <u>Cost</u> - DED (PSC)	\$0	\$0	(\$201,689)
<u>Revenue</u> - Department of Economic Development (PSC)			
Assessment to utilities	<u>\$0</u>	<u>\$0</u>	<u>\$201,689</u>
Estimated Net Effect on PUBLIC SERVICE COMMISSION FUND	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
<u>FISCAL IMPACT - Local Government</u>	FY 2002 (10 Mo.)	FY 2003	FY 2004
LOCAL GOVERNMENT			
<u>Cost</u> - for municipals to meet additional requirements			
	(Unknown)	(Unknown)	(Unknown)
<u>Loss</u> - of tax revenue			
	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
Estimated Net Effect on LOCAL GOVERNMENT	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>

FISCAL IMPACT - Small Business

Small businesses could be affected by the provisions of this proposal.

DESCRIPTION

RETAIL ELECTRIC SERVICE CUSTOMER CHOICE - Beginning on July 1, 2004, retail consumers of electric service receiving service from municipal electric utilities that have elected to participate in competitive sales, from an electric cooperative or from an electrical corporation may choose their supplier by taking electric power and energy either directly from a competitive electric provider (CEP), or from the incumbent electric service provider on a regulated basis.

Retail customers receiving service at a structure on July 1, 2004, and the initial customer for any new structure to which power and energy are first supplied after July 1, 2004, will have the choice to receive electric power and energy on a competitive basis or on a regulated basis. Once a customer has elected for a structure on a competitive basis, the customer may not buy power and energy for that structure on a regulated basis, unless the commission determines that it would be in the public interest to do so. Local distribution service for an existing structure that the retail customer has elected to purchase services for on a competitive basis will be provided by the current local distribution utility (LDU). The CEP will deliver the contracted amounts of power and energy to the LDU. The LDU will be paid a fee by retail customers having electric power on a competitive basis for each customer's share of the local distribution utility's costs in maintaining backup, peaking and emergency power for consumers.

MARKET POWER INVESTIGATIONS - The Public Service Commission shall investigate allegations of market power on its own motion or when requested by an interested party and shall issue its report and order as to the presence of market power within 90 days. If the Commission finds probable cause to believe market power exists, the electric provider alleged to have market power must submit a market power analysis. The Commission shall then hold a hearing and issue an order if it finds market power exists. If market power is found, the electric provider must file a proposed market power mitigation plan. The Commission shall annually report to the General Assembly on the development of competition in electric markets.

LICENSURE OF COMPETITIVE ELECTRICITY PROVIDERS - All CEPs shall obtain and hold a license from the Public Service Commission in order to do business in the state. The proposal contains licensing requirements which include: proof of financial and operational fitness; if necessary, filing a bond with the Commission; an agreement to disclose certain information. The proposal 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

DESCRIPTION (continued)

license for failure to meet one or more requirements of a license.

MUNICIPAL OPT IN - Municipally-owned utilities may elect to participate in retail competition. Exclusive generation service rights shall no longer apply to those municipally owned utilities which elect to participate in retail competition. The Commission shall not have rate authority over municipal 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.

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 Commission will adopt procedures and conditions relating to reliability of service. Each transmission utility that chooses not to join a Regional Transmission Organization (RTO) shall implement procedures and act to assure the provision of reliable service.

RATES FOR TRANSMISSION AND DISTRIBUTION - The Commission shall establish just and reasonable rates for unbundled local distribution services for electrical corporations. Rates for municipal utilities and electric cooperatives shall be set by their respective governing bodies.

UNBUNDLED BILLS AND CONSUMER PROTECTION - Billing and metering of retail sales of electric power and energy, including special metering, is the responsibility of the local distribution utility that provides service to the structure. The local distribution utility may contract with other entities to provide these services. Billing statements must include billing for the electric power and energy delivered on behalf of a competitive electric provider. On or before July 1, 2004, all statements for electric service must list as separate components the charges for electric power and energy, local electric distribution service, taxes, and any other breakdown in

DESCRIPTION (continued)

costs the utility believes will aid in informing customers. If a retail customer fails to pay his bill in full when due, the LDU may terminate service. The CEP and retail customer are jointly and severally liable to the LDU for costs incurred as a result of the competitive electric provider's failure to deliver services and satisfy its contractual obligations.

TRANSITION OR "STRANDED" COSTS - Electric service providers competing in the retail sale of electric power and energy can recover competitive transition costs (CTCs) and have a duty to mitigate such costs. Electric service providers must file a resource plan with the Commission within six months after the effective date of the proposal to specify the resources that will be used to satisfy obligations to regulated customers. An electrical corporation may request commission approval to remove assets from its rate base for service to regulated basis retail customers, and may file a request for a plan to recover anticipated competitive transition costs. Municipal utilities and cooperatives also may designate assets as being removed from dedication to serve regulated basis retail customers and adopt a plan to recover anticipated transition costs, and this plan needs to be filed with the Commission, but is not subject to approval. The requirements for a recovery plan and for Commission approval are specified.

CTCs are not recoverable for reductions in usage occurring during the normal course of business, and any recovery of such costs will be through non-bypassable and appropriately structured charges. Unless the Commission determines otherwise, the charge will be fixed per kilowatt-hour charge on all sales to competitive basis retail customers. The charge will not apply to the exercise of any competitive alternative that existed prior to the effective date of this proposal. The Commission may review competitive transition costs for any electrical corporation under its jurisdiction. Transition cost recovery rates by municipal electric systems and electric cooperatives are set by the regulatory body for each utility and are subject to judicial review upon customer complaint. Transition cost recovery charges by retail customer class must be nondiscriminatory between retail customers of the same class and similar usage.

TRANSITIONAL LABOR ISSUES - A competitive electric supplier must demonstrate that its employees have knowledge, skills and competence to install, operate and maintain electric supply facilities in this state. Electric service providers serving more than 500,000 customers in Missouri shall mitigate the impact of any workforce reductions on employees and their communities, including a workforce reduction plan. If an electric service provider serving more than 500,000 customers in Missouri sells any portion of its business or a generating plant, the acquiring entity shall employ a sufficient number of the utility's non-supervisory employees at substantially the same wages and benefits.

ELECTRIC COOPERATIVES - The proposal adds a definition of "local distribution utility service" and removes "rural area" from cooperative laws in chapter 394, RSMo. The proposal

DESCRIPTION (continued)

adds providing local distribution utility service as a power of cooperatives and removes the limitation to rural areas. Cooperative members must agree to use electric power and energy or local distribution utility service, when made available by the cooperative.

Cooperatives may be divided so as to distribute directors among members receiving different types of service. Cooperatives are exempted from foreign corporation laws. Territorial agreements regarding service areas may included generation service, distribution service or both. The "flip flop" protection for cooperatives is revised to refer only to distribution service.

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 Public Counsel
Department of Economic Development - Public Service Commission
Department of Natural Resources
Department of Revenue
Office of Administration - Division of Purchasing and Materials Management
Office of Secretary of State
Office of State Courts Administrator
City of Columbia
City Utilities of Springfield

NOT RESPONDING:

Independence Power and Light, City of St. Louis



Jeanne Jarrett, CPA
Director

April 2, 2001