

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 4268-01  
Bill No.: SB 1013  
Subject: Public Service Commission: Utilities  
Type: Original  
Date: February 25, 2002

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON STATE FUNDS</b>			
FUND AFFECTED	FY 2003	FY 2004	FY 2005
General Revenue	(\$519,186)	(\$525,668)	(\$489,936)
Public Service Commission*	\$0	\$0	\$0
<b>Total Estimated Net Effect on <u>All</u> State Funds</b>	<b>(\$519,186)</b>	<b>(\$525,668)</b>	<b>(\$489,936)</b>

\*Assumes costs to the Fund of \$440,166, \$577,816, and \$587,518 and offsetting increases in assessments against regulated utilities in the next three fiscal years.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
FUND AFFECTED	FY 2003	FY 2004	FY 2005
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
FUND AFFECTED	FY 2003	FY 2004	FY 2005
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

Numbers within parentheses: ( ) indicate costs or losses.  
This fiscal note contains 7 pages.

**FISCAL ANALYSIS**

**ASSUMPTION**

Officials of the **Department of Economic Development - Public Service Commission** would request:

A Regulatory Law Judge to review filings, set procedural schedules, preside at hearings and draft orders;

A Paralegal to organize, review and summarize evidence presented in cases before the Regulatory Law Judge;

A Legal Counsel for the state's Federal Energy Regulatory Commission (FERC) teams to review testimony, analysis and positions before the FERC, and serve as co-counsel at FERC proceedings;

A Utility Policy Analyst II to lead the FERC team that would provide testimony, analysis and positions to the FERC concerning purchased power agreements for the purchase of wholesale energy; and

A Utility Policy Analyst I to assist in providing testimony, analysis and positions before the FERC, assist in developing unbundled rates for electric utilities that choose to transfer generation assets to an affiliate, provide testimony at the Public Service Commission on whether a proposed transfer of generation assets would provide safe and reliable service when a utility files to transfer generation assets.

Officials also note that there would be expenses for staff to attend hearings in Washington, D.C. before the FERC and expenses for consultant counsel regarding Missouri electric purchased power agreements which would require FERC approval. (\$140,000 per year)

**Oversight** assumes the Public Service Commission would adjust assessments against regulated utilities to offset increased costs due to this proposal; **however, the amount of assessment against regulated utilities is limited to one-fourth of 1 percent (.0025) of gross intrastate operating revenues of all utilities under Commission jurisdiction. If assessments are insufficient to cover Commission costs then the Commission would have to seek an increase in the amount which may be assessed or seek funding for the Commission from different sources.**

Officials of the **Department of Economic Development - Office of the Public Counsel** identified duties and responsibilities in five areas due to this proposal. Those areas would be:

ASSUMPTION (continued)

1) Public Service Commission cases for the initial transfer of generating assets from regulated utilities to unregulated affiliates, 2) FERC cases involving approval of terms and conditions of Purchase Power Agreements (PPAs) between regulated utilities and their unregulated generation

affiliates, 3) Commission cases involving the secondary transfer of generating assets from unregulated affiliates to other entities under terms of 393.967.5, 4) FERC cases involving approval of terms and conditions of PPAs between regulated utilities and other entities which had obtained generation assets pursuant to 393.967.5, and 5) FERC cases where generation supply costs associated with PPAs would be determined.

Officials would request an Economist to oversee work of technical consultants and to perform economic analyses required due to the new areas of responsibility, an Attorney to oversee outside counsel which specializes in FERC proceedings and to participate in hearings before the Commission where no outside counsel would participate, and a Senior Office Support Assistant.

With regard to the first area of new responsibility noted above, officials stated four (4) Missouri electric utilities could file under terms of this proposal (one could file as two separate entities). Office of the Public Counsel officials assume that two utilities would begin the asset transfer process in the first fiscal year after the proposal becomes law and two in the second fiscal year. The Counsel would analyze utility filings and prepare cases addressing the extent to which those filings meet criteria for Commission approval. Counsel would request assistance of an Economist (in-house) and engineering and/or economic consultants to provide expert testimony on whether proposed PPAs meet the requirements of this proposal (393.966 and 393.967) and on the impacts that proposed transfers would have on the safety and reliability of electric service. Officials estimate consultants would work 200 hours per case and charge \$150 per hour (\$30,000 per case).

The second area of responsibility involves FERC cases which would set the terms of PPAs between regulated utilities and unregulated generation affiliates. Officials state that additionally technical and legal resources would be needed to prepare cases regarding terms and conditions of proposed PPAs and their effects on Missouri ratepayers. Officials would hire Washington, D.C. attorneys which specialize in FERC proceedings, on an hourly basis. They believe that they would need attorneys for 800 hours per year for the next two fiscal years. Based on anticipated hourly charges of \$250, costs for legal counsel would be \$200,000 per year. Technical assistance from consultants experienced in FERC wholesale electric contract cases would be \$150 per hour and officials anticipate 500 hours per year (\$75,000 per year).

The third area of responsibility involves Public Service Commission cases where generating assets would be transferred from an unregulated affiliate to "any other entity." Officials anticipate that those cases would begin in fiscal 2005. Officials state that additionally technical and legal resources would be needed to analyze and prepare recommendations about the effects of these ASSUMPTION (continued)

proposed transfers on the level of costs and the quality and reliability of electric service received by Missouri retail customers. Office of the Public Counsel officials anticipate one such case in FY 2005 and anticipate needing engineering consultants at \$200 per hour for 200 hours per case (\$40,000 per year).

The fourth area of new responsibility would involve PPAs which entities would want to transfer or modify. PPAs must “. . . remain in effect for the operational life of the transferred generation plant and generation-related assets.” Some generation assets of Missouri regulated utilities are expected to remain operational for 30 to 40 years. If transfers of generation assets from unregulated affiliates to “any other” entities are approved, the original or revised PPAs would be submitted to FERC for approval. Office of the Public Counsel officials anticipate those cases would begin in FY 2005 and continue at the rate of one per year for several years.

The fifth area of new responsibility also involves Purchase Power Agreements (PPAs). Since generation assets have such long (30 to 40 years) operational lives, officials anticipate filing of cases before the FERC to reassess the reasonableness of terms and conditions of PPAs. Counsel anticipates two of these types of case every two years beginning in FY 2005. Officials anticipate the need for technical assistance (legal and economic/engineering) to prepare cases regarding proposed revisions to PPAs and effects of those revisions on Missouri ratepayers.

Officials would hire Washington, D.C. attorneys which specialize in FERC proceedings, on an hourly basis. They believe that they would need attorneys for 800 hours per year and technical assistance from consultants with experience in FERC wholesale electric contract cases. Based on anticipated hourly charges of \$250, costs for legal counsel would be \$200,000 per year. Technical assistance from consultants experienced in FERC wholesale electric contract cases would be \$150 per hour and officials anticipate 500 hours per year (\$75,000 per year).

Officials of the **Secretary of State (SOS)** stated that this proposal would allow electric utilities to transfer assets to affiliates, with Public Service Commission approval. The Public Service Commission and the State Tax Commission would promulgate rules to implement the proposal. Based on experience with other divisions, the rules, regulations and forms issued by the Public Service Commission could require as many as 36 pages in the *Code of State Regulations*. For any given rule, roughly half again as many pages are published in *Missouri Register* as in the *Code* because cost estimates and fiscal notes are not repeated in the *Code*. The estimated cost of a page in the *Missouri Register* is \$23. The estimated cost of a page in the *Code of State Regulations* is \$27. The estimated cost of publication in FY 2003 for this proposal is \$2,214. Actual cost could be more or less and costs in future years would depend upon frequency and length of rules filed, amended, rescinded or withdrawn.

This proposal alone would not require the Secretary of State to hire additional personnel;  
ASSUMPTION (continued)

however, the cumulative effect of several bills requiring rulemaking activity could require additional resources.

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 of the **State Tax Commission** stated that their agency could carry out additional duties under this proposal with existing resources.

**Oversight** assumed new personnel would be housed in existing space.

<u>FISCAL IMPACT - State Government</u>	FY 2003 (10 Mo.)	FY 2004	FY 2005
<b>GENERAL REVENUE FUND</b>			
<u>Cost - Office of the Public Counsel</u>			
Personal Service (3 FTE)	(\$102,018)	(\$125,482)	(\$128,620)
Fringe Benefits	(\$36,737)	(\$45,186)	(\$46,316)
Expense and Equipment	(\$25,431)	\$0	\$0
FERC Attorneys	(\$200,000)	(\$200,000)	(\$200,000)
FERC Consultants	(\$75,000)	(\$75,000)	(\$75,000)
Engineer Consultants	<u>(\$80,000)</u>	<u>(\$80,000)</u>	<u>(\$40,000)</u>
Administrative Cost to Commission	(\$519,186)	(\$525,668)	(\$489,936)
<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>	<b><u>(\$519,186)</u></b>	<b><u>(\$525,668)</u></b>	<b><u>(\$489,936)</u></b>
<b>PUBLIC SERVICE COMMISSION FUND</b>			
<u>Income - Increased Assessments on Regulated Utilities</u>	(\$440,166)	(\$577,816)	(\$587,518)
<u>Cost - Public Service Commission</u>			
Personal Service (5 FTE)	(\$195,181)	(\$240,072)	(\$246,074)
Fringe Benefits	(\$70,285)	(\$86,450)	(\$88,611)
Consultant Expense	(\$100,000)	(\$100,000)	(\$100,000)
Expense and Equipment	<u>(\$74,700)</u>	<u>(\$151,294)</u>	<u>(\$152,833)</u>
Administrative Cost to Commission	(\$440,166)	(\$577,816)	(\$587,518)
<b>ESTIMATED NET EFFECT ON PUBLIC SERVICE COMMISSION FUND</b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>
<u>FISCAL IMPACT - Local Government</u>			
	FY 2003 (10 Mo.)	FY 2004	FY 2005
	\$0	\$0	\$0

### FISCAL IMPACT - Small Business

Small business could be affected by changes in electric rates as a result of this proposal.

### DESCRIPTION

This proposal would allow electrical corporations to, with Public Service Commission approval, transfer existing generating facilities to an affiliated entity.

Corporations would enter purchase power agreements (PPAs) with affiliated entities. PPAs would assure that affiliated entities provide enough power to meet the retail load of the electrical corporations at cost-of-service rates regulated by Federal Electrical Regulatory Commission and provide for operation and maintenance of transferred facilities. If FERC no longer regulated rates established under PPAs, the PSC would be able to review and establish PPA cost-of-service rates.

The proposal would specify procedures to be followed by and filings required of electrical corporations before the Public Service Commission would be required to approve the asset transfer.

The proposal would specify procedures for amending PPAs and for subsequent transfers of generation assets by affiliated entities to any other entities.

Transferred assets would continue to be treated as property of the electrical corporation for purposes of assessment and taxation and the State Tax Commission would adopt rules to ensure that property transferred is valued and allocated in the manner that is used for distributable property in effect August 28, 2002

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

### SOURCES OF INFORMATION

Department of Economic Development  
Public Service Commission  
Office of the Public Counsel  
State Tax Commission  
Secretary of State

A handwritten signature in black ink that reads "Mickey Wilson". The signature is written in a cursive style with a large initial "M".

Mickey Wilson, CPA  
Acting Director  
February 25, 2002