

HCS SCS SB 246 -- REGULATION OF ELECTRIC, GAS, AND WATER UTILITIES

SPONSOR: Steelman (Rector)

COMMITTEE ACTION: Voted "do pass" by the Committee on Communications, Energy, and Technology by a vote of 16 to 4.

This substitute makes numerous changes to laws regulating electric, gas, and water utilities.

PUBLIC SERVICE COMMISSION

Under current law, members of the Public Service Commission must reside within 40 miles of Jefferson City. The substitute requires commissioners to be Missouri residents.

The substitute also requires the commission to retain a six-member technical advisory staff with expertise in accounting, economics, finance, engineering or utility operations, law, and public policy. Each commissioner may also retain a personal advisor. All hiring of technical advisory staff members must be completed by July 1, 2004, and be offset through elimination of other commission staff positions. Advisory staff members cannot be a party to any case before the commission and are subject to the same ex parte and conflict of interest requirements as commissioners. No one regulated by, appearing before, or employed by the commission may offer advisory staff members new appointments or positions. No one leaving the advisory staff can be employed by the commission in any other capacity for at least two years; and new advisory staff members cannot have been employed by the commission, the Office of the Public Counsel, or any company regulated by the commission for at least two years before being hired.

Commissioners may confer with others on matters not relating to filed cases. Commissioners may also confer with others on matters relating to pending or filed cases if no evidentiary hearing has been scheduled and if the matter is discussed at an announced public meeting or a forum where affected parties are present or if the discussion is subsequently disclosed to affected parties. If an evidentiary hearing has been scheduled, commissioners may only discuss matters relating to procedures or unanimous agreements that resolve a case fully.

UTILITY CONTRACTS AND PROJECTS

The substitute allows gas and electric corporations, prior to entering into certain new contracts or construction projects, to file a petition with the commission requesting a determination of

rate-making principles that will be applied to costs prudently incurred over the term of the contract or useful life of the constructed facility. To be eligible, contracts must be for the purchase of at least \$5 million of electric power; and projects must involve construction of a new electric or gas plant costing at least \$5 million for companies serving from 100,000 to one million Missouri customers, or at least \$25 million for companies serving more than one million Missouri customers.

After receiving the petition, if the commission does not issue an order within 180 days, the rate-making principles proposed by the corporation will be considered approved. Within one year after the determination, the corporation must notify the commission if it plans to participate in the contract or construction project. If the corporation decides not to participate, the determination will be invalid and have no precedential value in subsequent proceedings.

ENERGY COST ADJUSTMENTS

The substitute allows electric corporations to recover prudently incurred costs for fuel and purchased electricity through energy adjustment rate schedules. The schedules may be filed with the commission separately or as part of a general rate proceeding. The commission must allow modification of the rates as frequently as every 90 days to reflect changes in costs that are not reflected in the corporation's base rates. The commission will establish a procedure to provide customer credits or refunds for any over-estimated costs and collections.

Each corporation that has an energy adjustment rate schedule on file with the commission will submit a monthly adjustment report, including calculation of the next month's energy adjustment rate. The commission may only examine the calculations for accuracy and may not consider other costs or overall rates. If a corporation's estimated costs exceed actual costs by more than 5% for any quarter, the corporation must submit an explanation and may be assessed to recover the commission's administrative costs. The commission's decision on each proposed rate adjustment will become effective no later than 30 days after filing. Rates are not subject to suspension by the commission.

This portion of the substitute will expire on August 28, 2008.

COST RECOVERY FOR INFRASTRUCTURE SYSTEM REPLACEMENT PROJECTS

The substitute allows gas corporations and water corporations serving more than 10,000 customers to file petitions with the commission for rate adjustments that recover from customers prudently incurred costs for infrastructure replacement projects.

Eligible projects may include replacement of deteriorating equipment, safety enhancements, and non-reimbursed costs of facility relocations required by highway and other public works construction. Projects may not increase revenue by connecting to new customers and must not have been included in the corporation's last general rate case.

Commission staff may examine the petition and submit a report within 60 days. The commission may hold a public hearing and must issue an order that becomes effective within 120 days after the petition is filed. During its consideration of the petition, the commission may not examine the corporation's other revenue requirements or rate-making issues.

Adjustment charges must appear on customers' bills as a separate charge and may only apply to classes of customers that receive benefits from the infrastructure replacement project. Charges must be applied in a manner consistent with the customer class cost-of-service study from the corporation's most recent general rate proceeding. Charges will not be approved if the corporation's last general rate proceeding was more than three years before the petition was filed or if the adjustment produces revenue exceeding 10% of the base revenue level approved in the corporation's last general rate proceeding. Rates may not be adjusted more than twice a year, and charges may not be collected for more than three years unless the corporation has filed or is the subject of a new general rate proceeding. Estimated monthly charges are subject to annual reconciliation.

COST RECOVERY FOR SECURITY MEASURES AND RELOCATIONS

The substitute requires the commission to allow electric, gas, and water corporations to recover from customers prudent costs for security measures, including incremental insurance costs, that were incurred after August 28, 2003, and necessary to comply with federal, state, and local requirements. Requests will be protected from public disclosure. The commission is also required to allow electric corporations to recover non-reimbursed costs of facility relocations required by highway and other public works projects. Cost recovery will not be approved if the corporation's last general rate proceeding was more than three years before the petition was filed or if the corporation has been the subject of an earnings review. Charges may not be collected for more than three years unless the corporation has filed or is the subject of a new general rate proceeding.

OTHER PROVISIONS

In other provisions, the substitute:

(1) Allows the commission to approve programs that assist low-income residential customers in obtaining reliable utility service. Terms and conditions must be proposed by an electric or gas corporation, may include energy efficiency, weatherization, and evaluation components, and must not have a negative financial effect on the corporation;

(2) Requires anyone who acquires an interest of at least 5% ownership in both a public utility regulated by the commission and an entity that supplies more than \$1 million in products per year to the same utility to notify the commission within 30 days. Failure to report is a class A misdemeanor; and

(3) Allows steam heating companies with fewer than 100 Missouri customers to file under the small company rate procedure by giving notice to the commission, the Public Counsel, each customer, and each gas and electric corporation providing utility service in the area. Customers and corporations that respond within 30 days may participate in any case hearings or conferences.

FISCAL NOTE: Estimated Net Cost to General Revenue Fund of \$630,738 in FY 2004, \$599,024 in FY 2005, and \$607,660 in FY 2006. Estimated Net Effect on Public Service Commission Fund of \$0 in FY 2004, FY 2005, and FY 2006.

PROPOSERS: Supporters say that the Senate substitute will improve the ability of the Public Service Commission to analyze increasingly complex issues and will remove uncertainty about ex parte communications.

Testifying for the bill were Senator Steelman; Missouri Energy Development Association; and Ameren UE.

OPPOSERS: Those who oppose the Senate substitute say that the portion of the substitute that deals with disconnection of water services would cause extreme hardship for cities and water districts. Disconnection procedures for non-regulated utilities should be developed by local officials.

Testifying against the bill were Missouri Rural Water Association; and Missouri Public Utility Alliance.

Terry Finger, Senior Legislative Analyst