

HB 2343 -- ELECTRICAL CORPORATION CONSTRUCTION

SPONSOR: Emery

COMMITTEE ACTION: Voted "do pass" by the Committee on Utilities by a vote of 9 to 2.

Currently, an electrical corporation is prohibited from making or demanding charges for service that are based on the costs of construction in progress on any existing or new facility of the electric corporation or any other costs associated with owning, operating, maintaining, or financing the property before it is fully operational and used for service. This bill removes the prohibition for baseload generating plants and generating facilities and authorizes the Missouri Public Service Commission to make or demand additional charges for service based on additional amortizations to maintain the electrical corporation's financial ratios, if in the commission's judgment, it would better enable the corporation to cost-effectively construct or implement a generating plant, environmental upgrades, smart grid infrastructure, high and low voltage delivery infrastructure, energy facilities, or energy efficient programs.

The bill establishes the Missouri Energy Security Construction Act which requires the commission, for rate-making purposes and for obtaining required regulatory approvals, to treat all capital costs and expenses incurred by the subsidiary corporation, limited liability company, partnership, or other entity that an electrical corporation forms to acquire, finance, license, construct, own, operate, maintain, or decommission a baseload generating plant, as if the costs, expenses, and revenues were incurred or received directly by the electrical corporation and the plant itself was owned directly by the electrical corporation. The property of an electrical corporation owning a baseload generating plant must be treated as if it were owned by the electrical corporation for all purposes of the assessment and levy of property taxes.

The commission must convene a docket within 30 days of the effective date of the bill to consider the relative merits of various methods to finance baseload generating plants and generating facilities.

Procedural requirements are specified for an electrical corporation filing a project development application and a facility review order as well as requirements and procedures for when the commission considers the applications and orders regarding construction work in progress for both rate-making and regulatory approval purposes. No earlier than three months after the issuance of a facility review order which, if requested by

the electrical corporation, must include an order approving revised rates and every three months thereafter the electrical corporation may file with the commission requests for the approval of revised rates that must include the electrical corporation's additional investment in the facility as shown in its accounting records that were not previously included in the rates.

The bill specifies that courts of the state will have the power to review commission determinations but cannot stop or delay the construction, operation, or maintenance of a baseload generating plant or generating facility, except to require compliance with any unmet requirement or prohibit cost recoveries previously approved in commission proceedings.

Any state or regional agency, political subdivision, or other local government, with the exception of the Department of Natural Resources, is prohibited from requiring approval, consent, permit, certificate, or other condition for construction, operation, or maintenance of a baseload generating plant or other generating facility authorized by the commission with the exception of the application of state laws for the protection of employees engaged in the construction, operation, or maintenance of a facility. State agencies will continue to have authority to enforce compliance with applicable state statutes, rules, regulations, or standards within their authority.

FISCAL NOTE: No impact on state funds in FY 2011, FY 2012, and FY 2013.

PROPOSERS: Supporters say that the bill is necessary to ensure that Missouri utilities can finance and construct power plants which will meet growing energy demands. The bill will minimize the costs of construction and financing in a variety of ways. Missouri utilities currently paying high-interest rates must issue high-yield bonds because of their low credit ratings.

Testifying for the bill were Representative Emery; Missouri Energy Development Association; Association of Missouri Electrical Cooperatives; Missouri Association of Municipal Utilities; and Missourians for a Balanced Energy Future.

OPPOSERS: Those who oppose the bill say it will repeal a voter-enacted ban on including construction costs in utility rates prior to a power plant becoming operational. Utilities have a state-enforced monopoly and are allowed to generate a 10% or greater rate of return. Utilities should assume greater risks for new projects.

Testifying against the bill were Office of the Public Counsel;

Missouri Industrial Energy Consumers; Missouri Energy Group;
Consumers Council of Missouri; AARP; Missouri Association for
Social Welfare; and P. J. Wilson, Renew Missouri.