

HCS HB 2265 -- PUBLIC UTILITIES

SPONSOR: Berry

COMMITTEE ACTION: Voted "Do Pass with HCS" by the Standing Committee on Utilities by a vote of 10 to 2. Voted "Do Pass" by the Rules- Administrative Oversight Committee by a vote of 11 to 1.

RATE SCHEDULES FOR INTERIM ENERGY CHARGES OR PERIODIC RATE ADJUSTMENT

This bill authorizes electrical corporations to apply to the Public Service Commission for an interim rate change mechanism outside of a general rate case to adjust for impacts to utility revenues. However, the authorization shall only be granted from January 1, 2019, to January 1, 2029. Any electrical corporation that applies for an interim rate change mechanism shall quarterly file a surveillance report with required components detailed in the bill (Section 386.266, RSMo).

COMPLAINT PROCEDURE

This bill maintains that a complaint brought to the Public Service Commission against a public utility must be for a violation of law under the commission's jurisdiction, any rule promulgated by the commission, or of any utility tariff or order (Section 386.390).

RATE MAKING CONSIDERATIONS OF FEDERAL TAX REFORM

This bill provides that the Public Service Commission shall have the one-time authority to adjust the rates of electrical corporations that do not have general rate proceedings pending as of February 1, 2018, to reflect the effects of the federal 2017 Tax Cut and Jobs Act. As an alternative to the rate change, an electrical corporation may make deferrals to a regulatory asset, provided that good cause is shown. However, if an electrical corporation with one million or more Missouri customers applies to have its rates changed in light of the federal tax law, then the corporation's rates shall be adjusted without considering any other factor. This portion of the bill is subject to an emergency clause (Section 393.137).

CERTIFICATE OF CONVENIENCE AND NECESSITY

Currently, any electrical plant or other electrical generating facility must receive a certificate of convenience and necessity from the Public Service Commission before construction can begin. This bill provides that such a certificate need not be obtained for

electrical generating facilities with a capacity of one megawatt or less (Section 393.170).

#### SMART METERS

Customers of electrical corporations shall have the option to not use a smart meter for electrical service, however that option shall be provided on an unreserved first-come, first-serve basis. Electrical corporations shall not be required to honor opt out requests from customers for no more than 2% of their Missouri residential customer class. Residential customers may be charged a smart meter removal fee, along with subsequent traditional meter user fees (Section 393.1100).

#### QUALIFYING ELECTRIC PLANTS IN-SERVICE ACCOUNTING AND CAPITAL INVESTMENT

This bill creates a voluntary program for electrical corporations for the creation of regulatory assets using plant-in-service accounting. This program specifies that, electrical corporations shall defer all depreciation expenses and returns associated with half of all qualifying electric plants as of the effective date of the bill, and then all other depreciation expenses and returns associated with qualifying electric plants after the bill's effective date, to a regulatory asset. The regulatory asset shall then be included in those electrical corporations' rate base without any other offsets or adjustments except as provided in the bill.

Beginning February 28, 2019, an electrical corporation availing itself of the benefits of the regulatory asset creation shall annually submit a five-year capital investment plan to the Public Service Commission with specific criteria as specified in the bill. Within 30 days of submitting an investment plan, the electrical corporation shall hold a public stakeholder meeting to answer questions and receive feedback. After receiving feedback, the electrical corporation may modify its filed investment plan. This section of the bill expires on December 31, 2028, except that all regulatory assets created under this section and amortization thereof shall nonetheless continue to be included in an electrical corporation's rate base (Section 393.1400).

#### PILOT PROJECTS

The bill also states that the Public Service Commission may approve pilot projects if the project is designed to advance the proposing electrical corporation's knowledge of deploying such technology (Section 393.1610).

## DISCOUNTED ELECTRIC RATES

This bill creates an electric rate discount for high energy users who apply for a discounted rate before the public announcement of a growth project. An eligible customer shall receive local, regional, or state economic development incentives, and add incremental load with an average monthly demand of at least 300kW with a load factor of at least 55% within two years after the application for a discounted rate is submitted.

Such a discount shall be a percentage applied to all base rate components of the bill, and shall be applied for up to five years. The average annual discount shall be 40% on all base rate components, and an additional 10% discount for one year after the expiration of the initial discount if the customer takes service from an under-utilized circuit. Any reduced revenues arising from the discounted rate shall be borne by all of the electrical corporation's customer classes.

This provision expires on December 31, 2028, except as stated otherwise in the bill (Section 393.1640).

## CONTRACTOR QUALIFICATION AND BIDDING

This bill requires electrical corporations with more than one million Missouri customers to develop a qualification process for the competitive bidding of contractors seeking construction contracts for distribution system projects. The electrical corporation may specify the eligibility requirements for contractors, but the electrical corporation shall not weigh any contractor favorably or unfavorably due to a union affiliation, except when work is being performed under a project labor agreement.

Within 30 days of the effective date of this bill, the electrical corporation shall file a verified statement with the Public Service Commission stating that it has in place a qualification process. Any general rate proceeding filing thereafter shall be accompanied with a verified statement that the electrical corporation is using a competitive bidding process for installing no less than 10% of combined external installation expenditures in Missouri for construction services on distribution system projects. Nothing in this act shall require an electrical corporation to use a qualified contractor or competitive bidding process in the case of an emergency, or to terminate any existing contract prior to its expiration.

The commission shall report to the General Assembly by December 31,

2020, and annually thereafter, on the effects of contractor qualification and bidding (Section 393.1650).

#### RATE INCREASE LIMITATIONS

This bill limits rate increases for electrical corporations that elect to be subject to the provisions of Section 393.1400, and that have more than 200,000 customers in 2018. An electrical corporation's base rates shall remain static for three years, except that rates may change due to a reduction in revenues resulting from weather, an act of God, war, terrorism, or other uncontrollable event.

If the average overall rate for an electrical corporation with a general rate proceeding pending before the Public Service Commission as of February 1, 2018, or August 28, 2018, increases by more than 3%, then the electrical corporation shall not collect any amount exceeding that 3% as a penalty.

If the average overall rate for an electrical corporation that does not have a general rate proceeding pending before the Public Service Commission as of February 1, 2018, or August 28, 2018, increases by more than 2.85% percent, then the electrical corporation shall not collect any amount exceeding that 2.85% percent as a penalty.

Revenues not recovered due to the penalty and subsequent lowering of rates shall be deferred to the regulatory asset created under Section 393.1400, or recovered through an amortization in base rates. Additionally, if base rates for the any participating electrical corporation's large power service rate class increase by more than 2%, such base rate shall be limited to a 2% increase with any reduced revenues arising from such a limitation being allocated amongst all other customers (Section 393.1655).

#### SOLAR ENERGY REBATES

The bill requires electrical corporations to issue solar energy rebates equal to 50 cents per watt for solar energy systems that become operational between January 1, 2019, and June 30, 2019. From June 30, 2019, and December 31, 2023, the solar rebate shall be 25 cents per watt. However, the solar rebates shall only apply up to 25 kilowatts per system for residential energy users and 125 kilowatts per system for nonresidential energy users. The amount of solar rebates a particular electrical corporation will be required to honor is further limited in the bill.

Electrical corporations shall be allowed to recover the costs of all solar rebates under Missouri's renewable portfolio standard,

and shall be allowed to defer and amortize the recovery of such costs through either base rates or a surcharge. However, any recovery resulting in an increase of more than 1% of the average retail rate shall be deferred to a regulatory asset, and recovered through base rates or another rate adjustment mechanism.

The solar rebate provision of the bill expires December 31, 2023, except for the extent provided (Section 393.1670).

#### NONSEVERABILITY

This bill states that all of its provisions are nonseverable, and that all of its provisions shall be deemed invalid if any individual provision is so held (Section 1).

This bill is similar to SB 564 and SB 572 (2018).

**PROPOSERS:** Supporters say that this bill has received input from all stakeholders to create true utilities reform. This bill addresses the lack of incentive utilities have to invest in innovation due to being a regulated monopoly by authorizing new accounting mechanisms, while maintaining commission regulatory authority. The bill implements hard rate caps, while enabling utilities to invest in new technologies and grid modernization. Missourians will see an immediate drop in consumer rates once the bill is passed.

Testifying for the bill were Representative Berry; Missouri Energy Development Association; Kansas City Power and Light; Empire Liberty Utilities; Ameren Missouri; Midwest Cyber Security Alliance & Missouri for Balanced Energy Future; Bill Plank, Jefferson City Area Chamber of Commerce; Jeana Woods, City of Osage Beach; and the Missouri Chamber of Commerce and Industry.

**OPPOSERS:** Those who oppose the bill say that they were not contacted during the bill's drafting. Consumer interests are not considered, and past compromise attempts have been rejected. Plant-in-service accounting is a solution in search of a problem, that will remove performance incentives for the electric utilities. There is nothing in the bill that actually requires grid modernization, and the rate caps in the bill are not true caps but revenue limits instead. The bill provides incentives for utility investments that have already been made, and hence merely adds to profits.

Testifying against the bill were Midwest Energy Consumers Group; Missouri Industrial Energy Consumers; Consumers Council of Missouri; American Association of Retired Persons (AARP); and Praxair.

OTHERS: Others testifying on the bill say parts of the bill limit the commission's authority, while others do not. Under the bill the commission would be prevented from making prudence determinations in certain circumstances. Economic development riders are already authorized by the commission, and a rider of 40% is not typically granted by the commission.

Testifying on the bill was Jamie Myers, Public Service Commission.