

HCS HB 554 -- ELECTRICAL CORPORATION CONSTRUCTION

SPONSOR: Emery

COMMITTEE ACTION: Voted "do pass" by the Committee on Utilities by a vote of 12 to 1.

Currently, electrical corporations are prohibited from making or demanding charges for service that are based on the costs of construction in progress on any existing or new facility or any other costs associated with owning, operating, maintaining, or financing the property. This substitute removes the prohibition for clean baseload generating plants and renewable source 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 a clean baseload generating plant or renewable source generating facility. 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 based on preconstruction costs and every three months thereafter.

The substitute establishes the Missouri Clean and Renewable Energy Construction Act which requires the commission, for rate-making and regulatory approvals, to treat any capital costs and expenses incurred by subsidiary corporations, limited liability companies, partnerships, or other entities that an electrical corporation forms to acquire, finance, license, construct, own, operate, maintain, or decommission a clean baseload generating plant, as if the costs were incurred directly by the electrical corporation and the plant itself was owned directly by the electrical corporation.

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 clean baseload generating plants and renewable source 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.

The substitute specifies that no court of the state will have jurisdiction to hear or determine any issue, case, or controversy

regarding any matter which has or could be determined in a hearing before the commission with regard to the act or to stop or delay the construction, operation, or maintenance of a clean baseload generating plant or renewable source generating facility, except to require compliance with any unmet requirements.

Any state or regional agency, political subdivision, or 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 clean baseload generating plant or other renewable source generating facility authorized by the commission, with the exception of 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: Estimated Cost on General Revenue Fund of \$0 in FY 2010, \$0 in FY 2011, and \$236,123 to \$393,423 in FY 2012. No impact on Other State Funds in FY 2010, FY 2011, and FY 2012.

PROPOSERS: Supporters say that Missouri has a need for a new baseload plant and that nuclear and clean coal power are the cleanest and most cost efficient in the long run. Funding and financing is simply not available in this economic environment for a plant of this type and magnitude without the bill. It will actually save Missouri energy consumers in the long run because they will be servicing the debt on the financing that they would be liable for after construction is complete through normal cost recovery ratemaking. This will be the biggest construction project in the history of the state and will create thousands of jobs and stimulate the economy.

Testifying for the bill were Representatives Emery and Walsh; Ameren UE; Missouri Energy Development Association; Mark Fohey; Curtis Chick, Jr., Central Region Workforce Investment Board for Cole County; Empire District Electric Company; Missourians for a Balanced Energy Future; Ed Robb; Missouri AFL-CIO; Missouri Association of Realtors; Missouri Association of Municipal Utilities; Columbia Chamber of Commerce; Missouri Association of Electrical Cooperatives; United Steelworkers District 11; Missouri Laborers' Legislative Committee; Harold Crumpton, Missouri National Association for the Advancement of Colored People; Dr. Jeffrey King; Laclede Gas; John Houlehan, Jr., Missouri Utilities Shareholders Association; and Plumbers and Pipefitters Local 562.

OPPOSERS: Those who oppose the bill say that it will place an

undue burden on energy consumers in already hard economic times. Industries that are already struggling with energy costs will be forced to cut jobs. It does not include enough consumer protections and needs multiple changes. The bill is too risky, and other energy investments might be more appropriate at this time. Nuclear energy is not safe for people or the environment.

Testifying against the bill were Layle Smith, Noranda Aluminum; Diana Vulsteyke; Office of Public Counsel; Leann Chilton, Missouri Energy Group; AARP; Missouri Association for Social Welfare; Mark Haim, Missourians for Safe Energy; Karen Morse, Missouri Coalition for the Environment; Missouri Industrial Energy Consumers; Gary Kajander, Monsanto Company; Sierra Club; Missouri Retailers Association; Maurice Brubaker; Alvin Hulse; and Brent Evans.

OTHERS: Others testifying on the bill say that the intended results could be accomplished by simply lifting the preconstruction cost ban on these type of plants and not including additional language. A great deal of work needs to be done on the bill to strike a balance between the need for this plant and financing and consumer protections.

Testifying on the bill was Missouri Public Service Commission.