



SOUTH CAROLINA REVENUE AND FISCAL AFFAIRS OFFICE
STATEMENT OF ESTIMATED FISCAL IMPACT
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Bill Number: H. 4375 Veto Overridden on June 28, 2018
Author: McCoy
Subject: Utility Plants and Projects, Rates
Requestor: House of Representatives
RFA Analyst(s): Wren, R. Martin, and Shuford
Impact Date: August 13, 2018

Estimate of Fiscal Impact

	FY 2018-19	FY 2019-20
State Expenditure		
General Fund	\$190,000	\$0
Other and Federal	\$54,000	\$0
Full-Time Equivalent Position(s)	1.00	0.00
State Revenue		
General Fund	See Below	\$0
Other and Federal	See Below	\$0
Local Expenditure	\$0	\$0
Local Revenue	\$0	\$0

Fiscal Impact Summary

This bill will increase Other Funds expenses of the Public Service Commission (PSC) by \$25,000 in FY 2018-19 to cover attorney fees to defend the members of PSC in federal court. Additionally, Other Funds expenses of PSC will increase by approximately \$29,000 to employ a temporary employee to provide financial economic expertise related to the Base Load Review Act dockets and to perform other duties as deemed necessary by the agency. Any expenses incurred by the Office of Regulatory Staff (ORS) for filing of subpoenas, depositions, legal costs, and communication with the Consumer Advocate can be managed within the current appropriations of the agency. This bill will increase recurring General Fund expenses of the Department of Consumer Affairs by approximately \$190,000 for 1 FTE and operating expenses to cover costs of expert witnesses and consultants.

Since the bill reduces electric rates charged by South Carolina Electric & Gas Company (SCE&G), state revenue from the sales and use tax, the corporate income tax, the corporate license tax, and the electric power tax may be affected. We estimate that sales and use tax revenue may be reduced by \$7,769,000 in FY 2018-19. Of this amount, General Fund sales and use tax revenue will be reduced by \$5,179,000, the EIA will be reduced by \$1,295,000, and the Homestead Exemption Fund will be reduced by \$1,295,000 in FY 2018-19. This estimated sales tax revenue reduction may be partially offset by taxable expenditures by commercial businesses that realize a reduction in their electricity rates. Residential homeowners and the manufacturing sector will also benefit from reduced electrical rates and may expend some of these savings on taxable purchases. However, given that the 14.8 percent electric rate reduction is temporary and rate changes in the future are uncertain, attempting to estimate the changes in taxable spending across the commercial, residential, and manufacturing sectors would be speculative at best. For

these reasons, we are unable to provide a definitive estimate of the General Fund and Other Funds sales tax revenue impact of this bill.

Gross income for SCE&G will be reduced from the 14.8 percent reduction in electric rates. Further complicating the impact on corporate income tax and license fees is the loss of a planned capital investment in the two reactors, the potential change in ownership of the public utility, the changing of utility rates, and the outcome of the federal lawsuit. Given the uncertainties, we are unable to provide a definitive estimate of the General Fund corporate income tax and license fee revenue impacts of this bill. Finally, we anticipate electric consumers will not modify their electricity consumption significantly in the short term given the temporary nature of the rate reduction and the uncertainty of future rates, which are pending PSC decisions and probable judicial actions. Therefore, we estimate that the amount of the electric power generation tax will not be affected.

Explanation of Fiscal Impact

Veto Overridden on June 28, 2018

State Expenditure

This bill deletes Article 4, Chapter 33 of Title 58, which is the Base Load Review Act. As of the effective date of this bill, PSC must not accept a base load review application, nor may it consider any requests made pursuant to Article 4, Chapter 33 of Title 58 other than in a docket currently pending before the agency. The bill adds Chapter 34 to Title 58, which applies to rates for the investor-owned utility (SCE&G) holding the majority interest in the V.C. Summer Nuclear Reactor Units 2 and 3. Further, within five calendar days after the effective date of this bill, PSC must provide an experimental rate that customers must pay during pendency of litigation currently before PSC, which must include full and final compliance by the utility with the order issued by PSC or until replaced by an order of the commission. The experimental rate must reduce rates going forward in an amount equal to the electric utility rates the ratepayers are paying, reduced by specified rate increases imposed under the provisions of the Base Load Review Act in specific dockets of PSC for a period of no earlier than April 1, 2018, until the issuance of a final order by PSC on the matters before the commission. PSC is not prohibited from adopting the experimental rate directed by the General Assembly as its own rate.

The bill requires the Consumer Advocate of the Department of Consumer Affairs to be notified of any matter filed at PSC that could impact consumers' utility rates. Further, the Consumer Advocate may intervene to advocate for the interest of consumers before PSC and appellate courts in such matters as the Consumer Advocate deems necessary and appropriate. On appeal, the Office of Regulatory Staff (ORS) does not represent PSC.

The bill allows books, records, and other information to be produced by ORS under oath and without the requirement of a confidentiality agreement or protective order. However, ORS staff must treat the information as confidential unless PSC rules such information is not entitled to protection from public disclosure or until the public utility agrees that such information is no longer confidential or proprietary. All documents designated as confidential are exempt from public disclosure and ORS staff must not disclose such documents to any member of PSC, any person, or any entity. However, if PSC determines that it is necessary to view such documents, it

must order ORS to file the documents with PSC under seal. Such documents must not be available for public inspection unless ordered by PSC.

Office of Regulatory Staff (ORS). ORS indicates that any expenses associated with filing of subpoenas, depositions, legal costs, and communication with the Consumer Advocate can be managed within current appropriations of the agency. Therefore, the bill will have no expenditure impact on the agency.

Public Service Commission (PSC). This bill will increase Other Funds expenses of PSC by \$25,000 to cover attorney fees to defend the members of PSC in federal court. Additionally, Other Funds expenses of PSC will increase by approximately \$29,000 to hire a temporary employee to provide financial economic expertise related to the Base Load Review Act dockets and to perform other duties as deemed necessary by the agency.

Department of Consumer Affairs. The department indicates that this bill will increase recurring General Fund expenses by approximately \$190,000. Of this amount, \$90,000 is for one new attorney FTE to assist with intervention in utility rate cases. The remaining \$100,000 is needed to cover expenses of expert witnesses and consultants.

State Revenue

This bill requires PSC to provide an experimental rate that reduces electric rates charged by SCE&G pending the issuance of a final order by PSC. The bill will retroactively eliminate all rate increases since 2010 related to the V.C. Summer reactors, Units 2 and 3, under the Base Load Review Act by temporarily reducing electric power rates by 14.8 percent. The table below summarizes the electric rate change orders approved by PSC since 2010. From 2011 until the last electric rate change order on November 27, 2016, electric rates have increased by 14.8 percent to cover the cost of construction of two nuclear reactor units at the V.C. Summer Nuclear Station in Jenkinsville, South Carolina.

**Summary of S.C. Public Service Commission's
Rate Change Orders Since 2010**

Docket Number	Order Number	Retail Increase	Effective Date
2011-207-E	2011-738	2.43%	10/30/2011
2012-186-E	2012-761	2.33%	10/30/2012
2013-150-E	2013-680(A)	2.87%	10/30/2013
2014-187-E	2014-785	2.82%	10/30/2014
2015-160-E	2015-712	2.57%	10/30/2015
2016-224-E	2016-758	1.78%	11/27/2016
Total		14.80%	

Source: S.C. Office of Regulatory Staff

The following analysis estimates the potential impact on state revenues given current information. However, a final estimate will depend upon a review of the financial and economic

conditions once PSC has issued a final order on this matter and judicial challenges are completed. On July 3, 2018, PSC ordered the experimental rate starting on August 7, 2018. SCE&G filed a federal lawsuit on June 29, 2018, seeking an injunction to prohibit PSC from implementing this bill. On August 6, 2018, the federal court denied SCE&G's request for a preliminary injunction, and the next day SCE&G announced it would appeal this decision.

Since the bill reduces electric rates charged by SCE&G, state revenue from the sales and use tax, the corporate income tax, the corporate license tax, and the electric power tax may be affected. Sales of electricity to private residences and manufacturing plants are exempt from the state sales and use tax in South Carolina. The sale of electricity to the commercial (business) sector, however, is subject to the sales and use tax. If electric rates are changed, those rate changes will be reflected in the charges for electricity on customers monthly billing statements. The changes in commercial billing rates will be reflected in changes in state sales and use tax revenue collections.

According to the latest data from the U.S Department of Energy, Energy Information Administration, total electricity expenditures in the commercial sector totaled more than \$2,600,000,000 in South Carolina. Of this amount, electricity accounts for 85 percent of all energy used in the commercial sector. Adjusting this figure by an average annual rate increase in electricity consumption of 2.4 percent per year, total electricity expenditures in the commercial sector are estimated to reach \$2,465,400,000 in FY 2018-19.

This bill requires an electric rate reduction of 14.8 percent beginning no earlier than April 1, 2018. This time period includes the last three months of FY 2017-18. Since the rate change order occurs in FY 2018-19, incorporating this period of time would reduce commercial sector electricity rates on estimated expenditures of \$3,081,750,000 in FY 2018-19. Also, according to the U.S. Department of Energy, SCE&G supplied 28.39 percent of the total electricity demand in South Carolina based upon the total amount of megawatt hours sold. Multiplying an estimated \$3,081,750,000 of electricity expenditures in the commercial sector in FY 2018-19 by 28.39 percent of the electricity market controlled by SCE&G, and applying a 14.8 percent electricity rate reduction and 6 percent state sales and use tax yields an estimated reduction of \$7,769,000 in state sales and use tax revenue in FY 2018-19. Of this amount, General Fund sales and use tax revenue will be reduced by \$5,179,000, the EIA will be reduced by \$1,295,000, and the Homestead Exemption Fund will be reduced by \$1,295,000 in FY 2018-19.

This estimated sales tax revenue reduction may be partially offset by taxable expenditures by commercial businesses that realize a reduction in their electricity rates. Residential homeowners and the manufacturing sector will also benefit from reduced electrical rates and may expend some of these savings on taxable purchases. However, given that the 14.8 percent electric rate reduction is temporary and rate changes in the future are uncertain, attempting to estimate the changes in taxable spending across the commercial, residential, and manufacturing sectors would be speculative at best. For these reasons, we are unable to provide a definitive estimate of the General Fund and Other Funds sales tax revenue impact of this bill.

This bill may also affect revenue collections from the corporate income tax and the corporate license tax. Gross income for SCE&G will be reduced from the 14.8 percent reduction in

electric rates. Further complicating the impact on corporate income tax and license fees is the loss of a planned capital investment in the two reactors, the potential change in ownership of the public utility, the changing of utility rates, and the outcome of the federal lawsuit. Given the uncertainties, we are unable to provide a definitive estimate of the General Fund corporate income tax and license fee revenue impacts of this bill.

Finally, any change in amount of electricity produced by SCE&G from electric rate reductions may affect the electric power tax. Economic theory suggests that when the price of a good or service is reduced, the quantity demanded of the item will increase. However, consumer demand for electricity is not as responsive to changing prices, especially in the short run, compared to other goods and services. Given the temporary nature of the rate reduction and the uncertainty of future rates, which are pending PSC decisions and probable judicial actions, we anticipate electric consumers will not modify their electricity consumption significantly in the short term. Therefore, we estimate that the amount of the electric power generation tax will not be affected.

Local Expenditure

N/A

Local Revenue

N/A



Frank A. Rainwater, Executive Director