MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (16-088)

Subject

Initiative petition from Mike Grimes regarding a proposed amendment to Chapter 393 of the Revised Statutes of Missouri. (Received September 2, 2015)

Date

September 22, 2015

Description

This proposal would amend Chapter 393 of the Revised Statutes of Missouri.

The amendment is to be voted on in November 2016.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education,** the **Department of Health and Senior Services,** the **Department of Insurance, Financial Institutions and Professional Registration,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri, St. Louis Community College,** and **Public Service Commission.**

Edward Greim provided information as an opponent of the proposal to the State Auditor's office.

Assumptions

Officials from the **Attorney General's office** indicated they assume that any potential costs arising from the adoption of this proposal can be absorbed with existing resources.

Officials from the **Department of Agriculture** indicated no fiscal impact on their department.

Officials from the **Department of Economic Development** and the **Public Service Commission** (PSC) indicated:

Section 393.330.1, RSMo, states the purpose of the section is to ensure that "all" retail customers of electric power in the state have the choice of electric suppliers, which suggests the petition applies to the retail customers of investor-owned, municipal and rural cooperative electric providers.

Section 393.330.2, RSMo, states that all retail customers of an "electrical corporation as defined in Section 386.020, RSMo.", shall have the right to choose an alternative electric supplier, which suggests the petition is limited to the retail customers of investor-owned electric providers.

Section 393.330.3, RSMo, states the PSC shall establish a licensing procedure for all alternative electric suppliers. Without clarification as to the scope of the petition, the PSC is unable to estimate the fiscal impact of the proposal.

In addition, depending on the scope of the petition, it may have significant ramifications on the Missouri renewable energy standard and the Missouri Energy Efficiency Investment Act, both of which are only applicable to investor-owned electric providers.

The PSC reserves the right to quantify a fiscal impact and to identify additional issues and concerns if additional clarification on the petition is provided.

Attached is an Executive Summary of reports related to the Missouri electric industry structure and market power, which may be useful in reviewing the petition.

Executive Summary of Reports Provided in Response to the Analysis of Electric Industry Structure and Market Power February 11, 2015

“Report I - The Changing Structure of the Electric Utility Industry”. The Staff Team of the Missouri Public Service Commission (Staff Team). July 25, 1997.

- Wholesale markets for electricity are expanding to encompass larger geographic regions with a need for a Power Exchange where spot and future prices are determined for electricity.
- Retail Electric Providers (REPs) will provide bundled electric service that will include generation; transmission; distribution; single billing.

- Market power – If the number of competitors is too small and the strength of competition is weak, then the local utility will have the ability to control the price for electricity because generation will no longer be regulated.
- Transmission assets should be turned over to an Independent System Operator (ISO) as the "gatekeeper" for regional transmission grids to maintain system reliability and commercial viability.
- A restructured market will likely include: a competitive generation function; a regulated transmission function; power exchanges for hourly transactions with bilateral contracts for longer use, and ISOs.
- The restructured utility will be unbundled into the following businesses: (1) generation; (2) transmission; (3) distribution; (4) retail services; and, (5) customer information.
- State regulators will deal with: (1) certificating the competitive electric business as a means of protecting the public interest in areas of reliability and quality of service; (2) mitigating market power; (3) prohibiting new businesses affiliated with established regulated companies from gaining an unfair competitive advantage; and, (4) setting quality of service standards.

"Retail Competition in the Electric Industry" for the Missouri Public Service Commission. Scott Hempling. June 24, 1997.

I. <u>Determining Where Competition is Appropriate</u>
- For which services is unbundling efficient?
- For which services is unbundling physically feasible?

II. <u>Market Power Issues</u>
- Possible differentials in entry cost
    - Barriers created by law
    - Utility control of physical distribution
    - Customer loyalty and risk aversion
    - Utility load diversity
    - Utility access to information
- PSC regulation of market power

III. <u>Implementation Issues</u>
- Alternative market mechanisms
    - Customers buy directly from generator
    - Customers buy from aggregators
- Pilot programs
- Timing of customer choice
- New forms of regulation
- Obligation to serve

“Report II - Alternative Structures for a Competitive Electric Industry”. Staff Team. August 28, 1997.

- Wholesale Bulk Power Markets are those markets in which electricity merchants purchase power in large quantities form generators or from other electricity merchants for the purpose of reselling power.
    - o Poolco – regional power exchange for all electricity transactions that take place on a real-time hourly basis within the region
    - o Bilateral contracts
    - o Bilateral contracts with a power exchange
- Retail End User Electricity Markets are markets in which retail electric providers resell electricity.
    - o Incumbent utility remains the retail electric provider
    - o Retail access with alternative retail providers
    - o Incumbent utility and alternative retail electric providers

“Report III – Changes in the Pricing of Electricity: An Explanation of Regulated and Market Pricing”. Staff Team. December 17, 1997.

I. Contrasting Regulatory and Competitive Determination of Electricity Prices

- How prices for electricity are determined in a regulatory environment
    - o Setting regulated prices
    - o Components of embedded generation costs
- Electric price determination in competitive markets for generation
    - o Differences in price determination in a competitive market
    - o The short-run determination of price in a competitive market for generation
    - o The long-run determination of price in a competitive market for generation
- Market pressures to levelize electric prices
    - o Regulated retail rates
    - o Competitive generation for retail

II. Regulatory and Competitive Electricity Prices for Various Classes of Service

- Regulatory setting of prices by class of service
- Setting prices by class of service in a competitive market
- Comparing class of service prices for generation: regulate vs competitive markets
    - o Unbundling of generation costs at the class level
    - o The role of efficiency of use

<u>Retail Electric Competition Task Force – Case No. EW-97-245</u>

On March 28, 1997, the Commission established the Retail Electric Competition Task Force. The Commission asked the Task Force to:

o Compile a comprehensive plan for implementation of retail competition in Missouri in the event legislation is enacted which authorizes it;

o Survey activity in other jurisdictions implementing or studying retail wheeling; and, o Identify specific issues which will face the Commission, and the state as a whole, should retail competition occur.

A. "Report of the Stranded Cost Working Group". March 6, 1998.

Under current forms of regulation, the utilities have charged rates based on regulatory findings as to the amount of their prudently incurred expenses and investment. Electric rates have been based on the reasonable and prudent embedded costs the utilities incurred to provide service to customers. If competition in generation is feasible and allowed in the electric industry in Missouri, some portion of electric prices will no longer be dictated by the decisions of the public utility commission, but will be determined (at least in theory) by the supply and demand forces of the marketplace. Economic theory holds that prices of competitive goods and services should approximate the long-run marginal cost of producing the goods or service in question. The marginal cost of producing electricity may differ significantly from the current embedded cost of electric production reflected in current rate levels. Utilities whose embedded cost is in excess of the market price will suffer the phenomenon of "stranded costs" – embedded investment made by electric utilities to provide service to customers that will not be recoverable in price of electricity set in a competitive market. The report discusses, among other things: Mechanisms for quantifying stranded costs; timing of recovery; mitigation efforts; and, impact on key stakeholders.

B. "Reliability Working Group Report". March 6, 1998.

The Reliability Working Group reached the following conclusions as to how functional responsibilities, reliability enforcement, coordination and regulatory oversight functions might change under competition.

a. Because electricity is essential there must be a sufficient and reliable supply of electricity at a reasonable price.

b. The safety, reliability, quality and sustainability of electric service should be maintained or improved in a restructured electric industry.

c. No changes should be allowed to compromise safety or reliability, even if the intent is to lower consumer prices, except where a lower level of reliability is freely chosen by a customer and does not impact service to other customers.

d. Retail competition can be implemented under certain structures if it occurs through a carefully managed transition process that allows technical and administrative requirements to be developed and installed.

e. Any industry structure adopted to permit retail access must adequately address measures to maintain safe and reliable operation while ensure equitable treatment of all customers and market participants.

C. "Alternative Market Structures for Retail Competition". March 6, 1998.

The report sets out the structural changes that the working group believed would be common to any alternative proposal for market structure. The report also discusses each market structure as to the description of the structure, potential issues, potential structural impacts on utilities and potential impacts on consumers. Market structures include:

(1) A District Access Market Structure where retail electric providers (REP) directly negotiate with consumers to be their REP;

(2) A Poolco Market Structure where generation competition takes place at the wholesale level as generators and power marketers sell electricity to a common pool;
(3) A Hybrid Market Structure in which both REPs and a PX are active in the commercial sale of electricity.

D. "Final Report of the Task Force on Retail Competition". May 1, 1998.
The Task Force made the following recommendations:
a. The General Assembly have the Public Service Commission develop implementation requirements through a collaborative process that includes representatives from all stakeholder groups, with final approval involved through a rulemaking, hearing or filings before the Federal Energy Regulatory Commission.
b. Public interest protection be given a high priority during the transition. The General Assembly should have the Commission make a determination about which transition structures will provide strong protection to the end-use consumers and at the same time promote strong competition in generation.
c. The General Assembly give municipals and cooperatives the option whether to participate in the competitive supply of generation.
d. The Commission should consider giving the end-use consumers the option of having a single bill.
e. The General Assembly should require the appropriate state or local regulatory authorities to determine which bill option work best for different situations.
f. The General Assembly should require the appropriate state or local regulatory authorities to set out rules for the allocation of partial payments as well as rules for termination of service for non-payment.
g. The General Assembly should allow basic metering services to continue to be provided on a regulated basis.
h. Beyond the initial transmission, the General Assembly determines whether and when metering services is appropriate.
i. The General Assembly allow the appropriate state or local regulatory authorities to implement rules that will avoid unnecessary restrictions on technical requirements and excessive metering costs.
j. The Commission should form a working group to focus on the need for consumer education.
k. The General Assembly should require the Commission to develop rules containing minimum, verifiable, enforceable, uniform standards of disclosure to allow consumers to compare price, price variability, contract terms and condition, and other relevant factors.
l. Require the Commission to evaluate, and revise as necessary, consumer protection rules.
m. Develop a program of licensing that provides assurance of supplier's financial stability and ability to provide quality service.
n. Provider of last resort obligations for those that do not choose an alternative REP.
o. A rate reduction or rate cap on basic service during the transition.
p. A cost-effective low income program.
q. The introduction of retail competition should proceed only if it can be shown to benefit all classes of consumers.

r. Regulation must continue for services not subject to full and fair competition.
s. The appropriate regulatory authority must ensure present safety levels are maintained.
t. Quality and reliability of electric service must be maintained.
u. Workers displaced due to downsizing should be offered training to reenter job market.
v. Existing environmental standards must be preserved or improved and compliance with future standards must be ensured.
w. Adequate provision for the proper closure and decommissioning of generation facilities must be ensured.
x. Public benefit programs that address energy efficiency and research and development of new technologies and renewable resource technology should be encouraged.
y. The feasibility of a state funding mechanism for public benefit programs should be investigated.
z. The appropriateness of the current site review process for new generation and transmission facilities should be evaluated and modified as appropriate.
aa. Stranded costs claims should encompass all categories of costs that are deemed appropriate sources of stranded costs. All potential sources of stranded costs should be considered in determining the amount of stranded cost recovery.
bb. Methods for quantifying stranded costs should utilize market information to the extent possible and should include expected mitigation efforts. True-ups should be included as necessary.
cc. The General Assembly and regulators should approach the concept of securitization carefully. Options for its possible use should be preserved.
dd. Charges or credits should be confined to the customers of each individual utility and not spread across customers of other utilities.
ee. Rates should not be increased to allow for early recovery of stranded costs.
ff. Recommended several state and local tax reform principles.
gg. Discussed legal impediments and PSC jurisdiction.
hh. Recommended several steps related load forecasting, maintenance, firm load, transmission and ancillary services planning, distribution planning, emergency response, metering.
ii. Recommended several mitigation steps to limit market power and unfair competitive advantages.

Officials from the **Department of Higher Education** indicated this initiative petition would have no fiscal impact on their department.

Officials from the **Department of Health and Senior Services** indicated no fiscal impact on their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated their department would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated no impact.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact on their department.

Officials from the **Department of Revenue** indicated this petition will have no fiscal impact on their department.

Officials from the **Department of Public Safety** indicated their department sees no fiscal impact due to this legislation.

Officials from the **Department of Social Services** indicated no fiscal impact on their department.

Officials from the **Governor's office** indicated there should be no fiscal impact to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their office.

Officials from the **Department of Conservation** indicated that no adverse fiscal impact to their department would be expected as a result of this proposal.

Officials from the **Department of Transportation** indicated they assume no fiscal impact from this initiative petition.

Officials from the **Office of Administration** indicated this proposal will have no impact on their office.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated no fiscal impact on their office.

Officials from the **Secretary of State's office** indicated their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Their office is provided with core funding to handle a certain amount of normal activity resulting from each year’s legislative session. Funding for this item is adjusted each year depending upon the election cycle with $1.3 million historically appropriated in odd numbered fiscal years and $100,000 appropriated in even numbered fiscal years to meet these requirements. Through FY 2013, the appropriation had historically been an estimated appropriation because the final cost is dependent upon the number of ballot measures approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2013, at the August and November elections, there were 5 statewide Constitutional Amendments or ballot propositions that cost $2.17 million to publish (an average of $434,000 per issue). In FY 2015, the General Assembly changed the appropriation so that it was no longer an estimated appropriation and their office was appropriated $1.19 million to publish the full text of the measures. Due to this reduced funding, their office reduced the scope of the publication of these measures. In FY 2015, at the August and November elections, there were 9 statewide Constitutional Amendments or ballot propositions that cost $1.1 million to publish (an average of $122,000 per issue). Despite the FY 2015 reduction, their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not impact their office.

Officials from **Greene County** indicated that there are no estimated costs or savings to report from their county for this initiative petition.

Officials from the **City of Jefferson** indicated they expect no fiscal impact if this becomes law.

Officials from the **City of Kansas City** indicated no fiscal impact is anticipated if this proposal is adopted.

Officials from the **University of Missouri** indicated based on the information provided, they are unable to project whether this initiative will have any fiscal impact on the university.

Edward Greim provided the following information as an opponent of this initiative petition.

Graves Garrett LLC

Edward D. Greim
Graves Garrett, LLC
1100 Main Street, Suite 2700
Kansas City, Missouri 64105
Direct Dial: (816) 256-4144
edgreim@gravesgarrett.com

September 14, 2015

Missouri State Auditor's Office
301 West High Street
Office 880
P.O. Box 869
Jefferson City, Missouri 65102

Re: *Fiscal Note in Initiative Petition 2016-088*

To Whom It May Concern:

Based on the information contained in this letter, we propose the following fiscal note summary:

> Estimated additional revenue to state government, if any, is unknown with estimated implementation costs, which may include litigation costs, that could exceed $500,000. Estimated additional revenue to local governmental entities, if any, is unknown. Estimated costs to local governments could exceed $522 million and may include litigation costs.

Introduction

The initiative proposes a major shift in the delivery of electric power in Missouri but contains scant details about how such a shift would occur. The Missouri Energy Development Association ("MEDA") writes to assist the auditor in assessing the fiscal impact of the proposed measure. Missouri currently enjoys some of the lowest electricity rates in the nation. Missouri electric utilities are highly regulated by the Public Service Commission, which regulates price, reliability, and customer service, among other areas. These utilities pay well over $522 million in taxes to Missouri local governments, taxes that "alternative electric suppliers" may argue do not apply to their offerings.[1] Petition signers and voters must be informed that the initiative petition will incur substantial transitional costs and litigation costs, and that the initiative petition

[1] 522 million represents only license or franchise taxes paid by Missouri electric utilities to local governments, and does not include sales taxes or property taxes potentially at risk.

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jeopardizes hundreds of millions of dollars of tax revenue to state and local governments. On the other hand, any positive fiscal impact is unlikely and at best highly speculative. If rates increase due to changes in regulation, which appears more likely than not, then electric rates paid by state and local government entities will increase. Increased tax revenues stemming from increased electric rates are unlikely to materialize to offset government's increased direct costs. That is because higher rates may lead to decreased demand, causing a net overall decline in customer payments for electricity and, therefore, a decline in taxes collected from those payments. Again, what is certain is that a complete transformation of Missouri's regulation of electric utilities will entail significant implementation and monitoring costs.

Burdens on the State Government

The initiative petition requires the state Public Service Commission to develop and implement regulations concerning licensing procedures for "alternative electric suppliers." This requirement will undoubtedly require additional staff and the attendant salaries, benefits, and office space. The additional staff required could be substantial, as the Public Service Commission's duties will essentially double, requiring additional expertise to effectively regulate these new entities. New entities must undergo testing for (1) creditworthiness; (2) generation ability; (3) information technology systems dependability and security; (4) service reliability; and (5) customer service, among other areas. The Public Service Commission must design and implement procedures for "customer handoff" when a customer chooses an alternative electric supplier or changes its choice of suppliers. It is unclear whether alternative electric suppliers' prices will be regulated as part of the Public Service Commission's licensing procedures. The initiative petition leaves numerous questions unanswered, thereby exposing the state to litigation costs regardless of the decisions it makes.

Historical evidence suggests that prices for electricity increase after alternative electric suppliers enter the market. Reliability may decrease.[2] The availability of alternative electric suppliers makes it difficult for public utilities to project their electric power generation needs, leading to stranded costs for idle or mothballed generation plants and increased costs for unmet generation needs. Utilities may recoup their higher costs through higher utility rates. State government will incur the cost of higher rates directly through its electricity purchases, and may incur costs to deal with reliability issues. At the retail level, any electricity price increase will decrease the quantity of electricity sold, due to the negative price elasticity of demand for electricity.[3] Most researchers have found long-term price elasticity of demand for electricity is somewhere between -0.8 to -2.0. As prices rise, it is unknown whether some or all of the state sales and property taxes

[2] The costs of a decrease in reliability could be astronomical for state and local governments. In addition to lost productivity costs, essential services like hospitals and prisons—many of which are operated or funded by state and local governments—may require enhanced electricity backup systems.

[3] Bernstein & Griffin, Regional differences in the Price Elasticity of demand of Electricity, p. 10-30 (Feb. 2006), *available at* http://www.nrel.gov/docs/fy06osti/39512.pdf.

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currently collected will apply to alternative electric suppliers. At a minimum, the state government may incur substantial litigation costs to enforce its tax statutes against these new alternative electric suppliers.

The creation of alternative electric suppliers also promises to complicate the state government's relationship with electric utilities. The Public Service Commission has entered numerous agreements with and made various representations to Missouri's electric utilities. Electric utilities own proprietary electricity transmission lines and generation facilities. The initiative petition may expose the state to substantial legal costs, including the cost of a judgment to the extent the change in the law constitutes a government taking of private property without just compensation within the meaning of the Fifth Amendment of the United States Constitution or Article I, section 26 of the Missouri Constitution. Additionally, some or all of Missouri electric utilities may prefer regulation as alternative electric suppliers. The availability of lower state taxes and the desire to maximize state subsidies may be important considerations in determining whether some or all of each Missouri utility may restructure as an alternative electric supplier.

It is also unclear to what extent the language "shall have the right to choose" will be interpreted to require the state to take affirmative steps, such as providing incentives or subsidies to alternative electric suppliers, which would provide retail customers with an effective "right to choose." Any cost of complying with this provision is unknown but could be substantial.

Burdens on Local Governments

Missouri's electric utilities are large sources of local tax revenue, including property tax, sales tax, and license tax. It is unknown whether some or all of the statutes authorizing the collection of these taxes by different types of municipalities will apply to electric power services provided by alternative electric suppliers. Even if existing statutes are later construed by courts to grant Missouri municipalities authority to enact ordinances that impose property tax, sales tax, or license tax on alternative electric suppliers, the text of the unique ordinances enacted by each municipality may not apply to alternative electric suppliers. The only way to know whether all taxes will still be collected is to examine every local tax ordinance. The amounts at issue are substantial. For example, Missouri electric utilities paid over 522 million dollars in license taxes to local governments in 2014. Determining whether some or all of this revenue will be lost is uncertain and may require the expenditure of substantial litigation costs by some or all Missouri municipalities.

As the price of electricity rises, local governments will incur higher electricity costs. Local governments will also collect less tax revenue from their various local taxes due to the fact that the decrease in demand for electricity will likely offset higher revenues for each unit of electricity that consumers purchase. The availability of lower local government taxes may encourage some or all of each Missouri electric utility to restructure as an alternative electric supplier.

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Finally, Missouri's electric utilities are invested in Missouri and its local communities. The initiative petition may jeopardize the jobs of Missouri electric utilities' employees to the extent the utilities suffer decreased revenue or have higher costs of doing business. These local jobs are unlikely to be replaced by out-of-state alternative electric suppliers. Missouri electric utilities provide numerous other benefits to local governments, all of which may be reduced or discontinued if the initiative petition is enacted.

Additional Information on the Impact of Electricity Deregulation

Background

The idea of deregulation to spur competition was front and center beginning in the 1970's with the airline and telecommunications industries. Costs for consumers have continued to increase over the years for their services and the industries have sustained merger after merger to remain competitive. The electricity industry has also dabbled with deregulation since 1997, with a total of seventeen states[4] in the U.S. allowing a "retail choice" for consumers. "Retail choice" allows customers to choose their electricity provider and the state in which those customers reside no longer is limited by regulatory mechanisms to prevent exposure to market prices. (American Public Power Association, April 2014)[5]

Facts

- MEDA's investor-owned utility members are dedicated to providing safe, reliable, and affordable energy resources for nearly 4 million customers in Missouri.
- Proactive and efficient investments in critical infrastructure and generation/distribution have enabled Missouri customers to benefit from much lower utility rates than most states in the U.S.
- For example, according to the U.S. Energy Information Administration, as of October 2014, Missouri's average retail price of electricity to ultimate customers (residential, commercial, industrial, and transportation) ranked as the 11th lowest in the country at 8.47 cents per kilowatt-hour (c/kWh). (U.S. Energy Information Administration, 2014)
- In fact, Missouri is part of the "West North Central" census division[6], which as of October 2014 ranked as the 3rd lowest combined states average of retail price of

[4] California, Connecticut, the District of Columbia, Delaware, Illinois, Massachusetts, Maryland, Maine, Michigan, Montana, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, and Rhode Island

[5] American Public Power Association. (April 2014). Retail Electric Rates in Deregulated and Regulated States: 2013 Update. Washington, D.C.: www.publicpower.org.

[6] States included in the division are: Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, and South Dakota. *See generally* U.S. Energy Information Administration. (2001-2013). Retrieved January 29, 2015, from www.eia.gov:

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electricity at 8.84 c/kWh, narrowly missing the lowest census division's combined states average by just .19 c/kWh. (U.S. Energy Information Administration, 2014)

- Furthermore, there are NO deregulated states that are included in the three lowest census division's combined states average retail price of electricity as of October 2014.[7] As of late this past year, Missouri's deregulated neighbor Illinois's average retail price of electricity was 9.24 c/kWh, while Missouri enjoyed a much lower rate of 8.47 c/kWh. (U.S. Energy Information Administration, 2014)

Impact of Deregulation in Missouri

"States that implemented retail choice electric plans were generally high cost states, and the hope was that competition by electric suppliers would result in lower rates. In 1997, the states in the deregulated category had average rates that were 2.8 cents per kWh above rates in the regulated states (8.6 vs. 5.8). Unfortunately, the retail choice experience—complete with the combined effect of divestiture of utility generating assets, and exposure of retail consumers to wholesale rates set in RTO markets—has resulted in an even larger gap in 2013, with deregulated states paying, on average, rates that are 3.0 cents per kWh above rates in regulated states (12.1 vs. 9.1)"

Average Revenue per Kilowatt-hour: Deregulated vs. Regulated States[8]

	Deregulated States	Regulated States	National
	(in cents per kilowatt-hour)		
2013	**12.1**	**9.1**	**10.1**

(American Public Power Association, April 2014)

To further emphasize the cost impact of deregulation, it is important to see the cost increase that each deregulated state has incurred in the last 16 years:

http://www.eia.gov/electricity/data/browser/#/topic/7?agg=1,0&geo=vvg&endsec=g&linechart=ELEC.PRICE.US-ALL.A~ELEC.PRICE.NEW-ALL.A~ELEC.PRICE.MAT-ALL.A~ELEC.PRICE.ENC-ALL.A~ELEC.PRICE.WNC-ALL.A~ELEC.PRICE.SAT-ALL.A~ELEC.PRICE.ESC-ALL.A~ELEC.PRICE.WSC-ALL.A.

[7] States included in the West South Central and East South Central census divisions are: Arkansas, Louisiana, Oklahoma, Texas, Alabama, Kentucky, Mississippi, and Tennessee.
[8] Source: Energy Information Administration, Forms EIA-861 and EIA-826

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Deregulated State's Average Customer Rates, in cents per kWh

RTO/State	1997	2013	Difference
ISO-New England			
Connecticut	10.5	15.7	+5.2
Maine	9.5	11.9	+2.4
Massachusetts	10.4	14.5	+4.1
New Hampshire	11.6	14.3	+2.7
Rhode Island	10.7	13.9	+3.2
Eastern PJM and NYISO			
Delaware	7.0	11.0	+4.0
District of Columbia	7.4	11.9	+4.5
Maryland	7.0	11.7	+4.7
New Jersey	10.5	13.7	+3.2
Pennsylvania	8.0	9.8	+1.8
New York	11.1	15.6	+4.5
Midwest			
Illinois	7.7	8.0	+.3[9]

[9] According to October 2014 data from the U.S. Energy Information Administration previously cited, the average retail price of electricity in 2014 was 9.24 c/kWh, which is an increase of +1.24 c/kWh from 2013. U.S. Energy Information Administration. (2014, October). Retrieved January 22, 2015, from www.eia.gov: www.eia.gov/electricity/monthly/epm_table_grapher.cfm?t=epmt_5_6_a.

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Michigan	7.0	11.3	+4.3
Ohio	6.3	9.2	+2.9
Western States			
California	9.5	14.6	+5.1
Montana	5.2	8.6	+3.4

(American Public Power Association, April 2014)

The state of Texas, which also has retail access, was not included in the American Public Power Association study. It is important to note that Michigan allows alternative suppliers to compete for a maximum of 10% of electric utility's retail sales, Montana has repealed their retail access for customers < 5 MW and for all customers that choose utility service, and California has suspended their retail access for customers. In doing so, Montana's state government, local government, and utility customers have incurred substantial costs, essentially paying many costs twice.[10] West Virginia, Arkansas, Oklahoma, and New Mexico have all had their rate restructuring laws repealed or delayed. (Rose, 2013)[11]

The state of Indiana, which enjoys low electric rates similar to Missouri, recently examined deregulated states versus traditionally regulated states. Mr. Ken Rose, Independent Consultant and Senior Fellow with the Institute of Public Utilities, stated two important points in his report to the Regulatory Flexibility Committee of the Indiana General Assembly in the fall of 2013, "'Deregulating' at the state level actually transfers jurisdictional authority from the state to the federal regulatory authorities—primarily the Federal Energy Regulatory Commission (FERC). Unfortunately when things go wrong within a state or region, customers and other market participants are wholly dependent on the federal government to fix it."

[10] Ochenski, George, *Missoulian*, "Montana's energy deregulation debacle about to come to an end", (Sept. 29, 2013), *available at* http://missoulian.com/news/opinion/columnists/george-ochenski-montana-s-energy-deregulation-debacle-about-to-come/article_75a3e5ce-2992-11e3-b015-001a4bcf887a.html, ("**Unfortunately, the $900 million it will take to re-acquire the dams will, once again, be passed on to consumers.**"). *See also* Balaskovitz, Andy, *Midwest Energy News*, "Michigan's electric choice law 'in the crosshairs' in 2015", (Dec. 5, 2014), *available at* http://midwestenergynews.com/2014/12/05/michigans-electric-choice-law-in-the-crosshairs-in-2015/.

[11] Rose, K. (2013). Comparing Restructured States with Traditionally Regulated States. Institute of Public Utilities (www.ipu.msu.edu).

Conclusion

The initiative petition will result in substantial transitional and implementation costs, and potential litigation costs, at the state and local level. Other costs, revenues, or savings, are highly speculative, but there is reason to believe that the initiative would lead to rate increases that would have an overall negative effect for state and local government. Judging by the financial impact of deregulation in the states where it is currently in place, changing the regulatory compact in Missouri will most likely bring increased utility costs to consumers and little added benefit while potentially impacting reliability. This gives further reason to doubt that any fiscal impact to state and local government will be positive.

Thank you for your consideration of these materials. If you have additional questions, please do not hesitate to contact me.

Respectfully submitted,

Edward D. Greim

1100 Main Street, Suite 2700 Kansas City, MO 64105 **ph** 816.256.3181 www.gravesgarrett.com

The State Auditor's office did not receive a response from the **Department of Elementary and Secondary Education,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Jackson County Legislators, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, State Technical College of Missouri, Metropolitan Community College,** and **St. Louis Community College**.

Fiscal Note Summary

The fiscal impact to state government is unknown but would likely include implementation costs and could include litigation costs. The fiscal impact to local governments is unknown but could include a loss in tax revenues from electric utility suppliers and potential litigation costs.