SB11-113

Colorado Legislative Council Staff Fiscal Note

STATE FISCAL IMPACT

Drafting Number:	LLS 11-0700	**Date:**	February 8, 2011
Prime Sponsor(s):	Sen. King S.	**Bill Status:**	Senate SVMA
		Fiscal Analyst:	Marc Carey (303-866-4102)

TITLE: CONCERNING THE IMPOSITION OF LIMITATIONS ON ACTIONS TAKEN BY A PUBLIC UTILITY WITH RESPECT TO ENVIRONMENTAL LAWS.

Fiscal Impact Summary	FY 2011-2012	FY 2012-2013
State Revenue		
State Expenditures	See State Expenditures section	
FTE Position Change		
Effective Date: Upon signature of the Governor, or upon becoming law without his signature.		
Appropriation Summary for FY 2011-2012: No appropriation required.		
Local Government Impact: None.		

Summary of Legislation

This bill prohibits the Colorado Public Utilities Commission (PUC) from considering future regulations or the risk of future costs associated with greenhouse gas emissions when establishing utility rates. Current law authorizes the PUC to consider both items when establishing utility rates. The bill, however, does allow the PUC to consider actual costs incurred by complying with federal or state laws or regulations. The bill also allows the PUC to consider whether carbon-free generation reduces actual costs incurred by utilities due to federal or state carbon emissions regulation.

In addition, current law directs rate-regulated electric utilities to develop plans to reduce emissions from coal-fired power plants, and specifies the extent to which the costs of implementing these plans are recoverable by utilities. This bill caps the amount that may be recovered from a retail customer at 2 percent of the rate the customer was paying before this law was enacted.

Background

In recent years, the General Assembly has passed several pieces of legislation related to clean energy development in Colorado. To provide context for SB11-113, the following describes 3 sections of statute that relate to its provisions, and discusses bills that have amended these sections.

New Energy Technologies (40-2-123, C.R.S.). This section requires the PUC to consider the cost-effective implementation of clean energy and energy-efficiency technologies in its consideration of generation acquisitions for electric utilities, bearing in mind factors such as energy security, economic prosperity, environmental protection and insulation from fuel price increases. ***HB08-1164*** amended this section to allow the PUC to, among other things, consider the likelihood of future regulation and the risk of higher future costs associated with greenhouse gas emissions.

Renewable Energy Standard (40-2-124, C.R.S.). This section was established by Amendment 37 and created the original renewable portfolio standard for Colorado. ***HB 07-1281*** expanded the standard to apply to Cooperative Electric Associations (CEAs) and Municipally-Owned Utilities (MOUs) with more than 40,000 customers. The bill raised the standard for electricity generation from renewable resources for IOUs and established a standard for CEAs and MOUs. The bill established bonuses for certain types of generation facilities, and raised the allowable retail rate impact from 1 to 2 percent of the customer's total annual electric bill. ***H10-1001*** further raised the standard for IOUs but left intact the standard for CEAs and MOUs.

Clean Air - Clean Jobs Act (40-3.2-201). This section was established with the passage of ***HB 10-1365***. This bill required that all regulated utilities (IOUs) that own or operate coal-fired electric generating units submit to the PUC an emissions reduction plan for those units. covering the lesser of 900 megawatts or 50 percent of the utility's generating capacity. The PUC was also required to evaluate and approve, modify, or deny the plans by December 15, 2010, considering specified criteria. Plans must be fully implemented by December 31, 2017. After January 1, 2012, the PUC may approve interim rates that take effect within 60 days after a rate increase filing.

State Expenditures

No expenditure increase is expected as a result of this bill.

Department of Regulatory Agencies, Public Utilities Commission. Under this bill, the PUC is prohibited from considering the likelihood of new environmental regulations or the risk of higher future costs associated with greenhouse gas emissions. Utilities in this state have a number of generation resources that have been approved using estimated carbon dioxide costs to determine a retail rate impact. While a rulemaking process reversing this practice is likely to be contentious, given that the changes contemplated by this bill would restore previous PUC practices, it is anticipated that any rulemaking will be completed within existing appropriations.

The bill also caps the amount that may be recovered from a retail customer for implementation of the Clean Air - Clean Jobs Act at 2 percent of the rate the customer was paying prior to passage of this act. Because this issue would be addressed as part of the rate recovery proceedings required under current law for implementation of the act, this provision is not expected to cause additional fiscal impact for the PUC.

Departments Contacted

Regulatory Agencies