

By the Committees on Community Affairs; and Communications, Energy, and Public Utilities; and Senators Legg, Latvala, Simpson, and Brandes

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1 A bill to be entitled

2 An act relating to nuclear and integrated gasification
3 combined cycle power plants; amending s. 366.93, F.S.;
4 modifying an alternative cost recovery mechanism for
5 the recovery of costs for the siting, design,
6 licensing, and construction of nuclear and integrated
7 gasification combined cycle power plants; establishing
8 a procedure and requirements for cost recovery based
9 on preconstruction and construction phases; providing
10 that a utility that elects not to complete
11 construction of a nuclear power plant may not recover
12 or retain any rate of return for related costs;
13 requiring the Public Service Commission to review the
14 circumstances surrounding a proposed nuclear power
15 plant if the anticipated cost and completion date
16 exceed the original cost and completion date by a
17 certain amount or period; specifying factors to be
18 considered and dates by which the review must commence
19 and be completed; providing an effective date.

20
21 Be It Enacted by the Legislature of the State of Florida:

22
23 Section 1. Subsections (1), (2), (3), and (6) of section
24 366.93, Florida Statutes, are amended to read:

25 366.93 Cost recovery for the siting, design, licensing, and
26 construction of nuclear and integrated gasification combined
27 cycle power plants.—

28 (1) As used in this section, the term:

29 (a) "Cost" includes, but is not limited to, all capital

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30 investments, including rate of return, any applicable taxes, and
31 all expenses, including operation and maintenance expenses,
32 related to or resulting from the siting, licensing, design,
33 construction, or operation of the nuclear power plant, including
34 new, expanded, or relocated electrical transmission lines or
35 facilities of any size which ~~that~~ are necessary thereto, or of
36 the integrated gasification combined cycle power plant.

37 (b) "Electric utility" or "utility" has the same meaning as
38 that provided in s. 366.8255(1)(a).

39 (c) "Integrated gasification combined cycle power plant" or
40 "plant" means an electrical power plant as defined in s.
41 403.503(14) which ~~that~~ uses synthesis gas produced by integrated
42 gasification technology.

43 (d) "Nuclear power plant" or "plant" means an electrical
44 power plant as defined in s. 403.503(14) which ~~that~~ uses nuclear
45 materials for fuel.

46 (e) "Power plant" or "plant" means a nuclear power plant or
47 an integrated gasification combined cycle power plant.

48 (f) "Preconstruction" is that period of time after a site,
49 including ~~any~~ related electrical transmission lines or
50 facilities, has been selected through and including the date the
51 utility completes site clearing work. Preconstruction costs must
52 ~~shall~~ be afforded deferred accounting treatment and ~~shall~~ accrue
53 a carrying charge equal to the utility's allowance for funds
54 during construction (AFUDC) rate until recovered in rates.

55 (2) Within 6 months after the enactment of this act, the
56 commission shall establish, by rule, alternative cost recovery
57 mechanisms for the recovery of costs incurred in the siting,
58 design, licensing, and construction of a nuclear power plant,

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59 including new, expanded, or relocated electrical transmission
60 lines and facilities that are necessary thereto, or of an
61 integrated gasification combined cycle power plant. Such
62 mechanisms must ~~shall~~ be designed to promote utility investment
63 in nuclear or integrated gasification combined cycle power
64 plants and allow for the recovery in rates of all prudently
65 incurred costs, including ~~and shall include~~, but not be limited
66 to:

67 (a) Recovery through the capacity cost recovery clause of
68 any preconstruction costs.

69 (b) Recovery through an incremental increase in the
70 utility's capacity cost recovery clause rates of the carrying
71 costs on the utility's projected construction cost balance
72 associated with the nuclear or integrated gasification combined
73 cycle power plant. To encourage investment and provide
74 certainty, ~~for nuclear or integrated gasification combined cycle~~
75 ~~power plant need petitions submitted on or before December 31,~~
76 ~~2010,~~ associated carrying costs must ~~shall~~ be equal to the most
77 recently approved pretax AFUDC at the time an increment of cost
78 recovery is sought in effect upon this act becoming law. For
79 ~~nuclear or integrated gasification combined cycle power plants~~
80 ~~for which need petitions are submitted after December 31, 2010,~~
81 ~~the utility's existing pretax AFUDC rate is presumed to be~~
82 ~~appropriate unless determined otherwise by the commission in the~~
83 ~~determination of need for the nuclear or integrated gasification~~
84 ~~combined cycle power plant.~~

85 (3) (a) After a petition for determination of need is
86 granted, a utility may petition the commission for cost recovery
87 as permitted by this section and commission rules.

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88 (b) During the time that a utility seeks to obtain a
89 combined license from the Nuclear Regulatory Commission for a
90 nuclear power plant or a certification for an integrated
91 gasification combined cycle power plant, the utility may recover
92 only costs related to, or necessary for, obtaining such
93 licensing or certification.

94 (c) After a utility obtains a license or certification, it
95 must petition the commission for approval before proceeding with
96 preconstruction work beyond those activities necessary to obtain
97 or maintain a license or certificate.

98 1. The only costs that a utility that has obtained a
99 license or certification may recover before obtaining commission
100 approval are those that are previously approved or necessary to
101 maintain the license or certification.

102 2. In order for the commission to approve preconstruction
103 work on a plant, it must determine that:

104 a. There is still a need for the plant; and

105 b. The projected costs for the plant are reasonable and
106 prudent.

107 (d) After a utility obtains approval to proceed with post-
108 licensing or post-certification preconstruction work, it must
109 petition the commission for approval of any preconstruction
110 materials or equipment purchases that exceed 1 percent of the
111 total projected cost for the project.

112 (e) A utility must petition the commission for approval
113 before beginning the construction phase.

114 1. The only costs that a utility that has obtained
115 commission approval may recover before beginning construction
116 work are those that are previously approved or necessary to

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117 maintain the license or certification.

118 2. In order for the commission to approve proceeding with
119 construction on a plant, it must determine that:

120 a. There is still a need for the plant; and

121 b. The projected costs for the plant are reasonable and
122 prudent.

123 (f) If a utility has not begun construction of a plant
124 within:

125 1. Ten years after the date on which it obtains a combined
126 license from the Nuclear Regulatory Commission for a nuclear
127 power plant or a certification for an integrated gasification
128 combined cycle power plant, it must petition the commission to
129 preserve the opportunity for future recovery under this section
130 for costs relating to that plant. The commission must determine
131 whether the utility remains intent on building the plant.

132 a. If the commission finds that the utility remains intent
133 on building the plant, the utility may continue to recover
134 costs.

135 b. If the commission finds a lack of such intent, it may
136 enter an order prohibiting recovery of any future costs relating
137 to the plant, notwithstanding any other provision of law.

138 2. Twenty years after the date on which it obtains a
139 combined license from the Nuclear Regulatory Commission for a
140 nuclear power plant or a certification for an integrated
141 gasification combined cycle power plant, the utility may not
142 recover future costs relating to that plant under this or
143 another section, notwithstanding any other provision of law.

144 (6) If the utility ~~does~~ ~~elects~~ not ~~to~~ complete ~~or is~~
145 ~~precluded from completing~~ construction of the nuclear power

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146 plant, including new, expanded, or relocated electrical
147 transmission lines or facilities necessary thereto, or of the
148 integrated gasification combined cycle power plant, the utility
149 ~~may shall be allowed to~~ recover all prudent preconstruction and
150 construction costs incurred following the commission's issuance
151 of a final order granting a determination of need for the
152 nuclear power plant and electrical transmission lines and
153 facilities necessary thereto or for the integrated gasification
154 combined cycle power plant. The utility shall recover such costs
155 through the capacity cost recovery clause over a period equal to
156 the period during which the costs were incurred or 5 years,
157 whichever is greater. The unrecovered balance during the
158 recovery period will accrue interest at the utility's weighted
159 average cost of capital as reported in the commission's earnings
160 surveillance reporting requirement for the prior year. However,
161 if the utility elects not to complete construction of the
162 nuclear power plant, rather than being precluded from completing
163 such construction, the utility may not recover or retain any
164 rate of return. Any cost recovery after the date of the decision
165 not to complete construction of the plant may not include a rate
166 of return. A utility that elects not to complete construction
167 shall refund to its customers the costs recovered before the
168 date of the decision which are attributable to a recovery of a
169 rate of return.

170 Section 2. The Public Service Commission shall perform a
171 comprehensive review of the continuing prudence, cost
172 effectiveness, and need for any proposed nuclear power plant for
173 which cost recovery under section 366.93, Florida Statutes, has
174 been authorized if the currently anticipated inservice date for

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175 the plant has been extended more than 6 years beyond the
176 original proposed inservice date and if the most recent estimate
177 of the plant's total cost has increased by more than 50 percent
178 of the original cost estimate for the plant. In making this
179 determination, the commission must consider all relevant
180 factors, including, but not limited to, the utility's need for
181 the plant, technology and fuel choices, applicable federal and
182 state licensing and permitting factors, and short- and long-term
183 costs to ratepayers. Based on its review, the commission shall
184 determine whether to authorize for cost recovery under section
185 366.93, Florida Statutes, any new or future costs for which cost
186 recovery has not already been authorized. Such review shall
187 commence on or before June 1, 2013, and shall be completed by
188 February 1, 2014.

189 Section 3. This act shall take effect July 1, 2013.