

20131472e1

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 the commission may not determine that a utility  
11                  intends to complete construction of a power plant  
12                  unless the utility proves its efforts by a  
13                  preponderance of the evidence; providing that a  
14                  utility that elects not to complete construction of a  
15                  nuclear power plant may not recover or retain any rate  
16                  of return for related costs; exempting certain actions  
17                  taken before this act takes effect; providing an  
18                  effective date.

19  
20 Be It Enacted by the Legislature of the State of Florida:

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

24                  366.93 Cost recovery for the siting, design, licensing, and  
25                  construction of nuclear and integrated gasification combined  
26                  cycle power plants.—

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

28                  (a) "Cost" includes, but is not limited to, all capital  
29                  investments, including rate of return, any applicable taxes, and

20131472e1

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

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

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

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

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

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

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

20131472e1

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

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

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

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

87 (b) During the time that a utility seeks to obtain a

20131472e1

combined license from the Nuclear Regulatory Commission for a nuclear power plant or a certification for an integrated gasification combined cycle power plant, the utility may recover only costs related to, or necessary for, obtaining such licensing or certification.

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

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

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

- a. The plant remains feasible; and
- b. The projected costs for the plant are reasonable.

(d) After a utility obtains approval to proceed with postlicensure or postcertification preconstruction work, it must petition the commission for approval of any preconstruction materials or equipment purchases that exceed 1 percent of the total projected cost for the project. Such petition shall be reviewed and completed in the annual Nuclear Cost Recovery Clause proceeding in which it is filed or in a separate proceeding by the utility.

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

1. The only costs that a utility that has obtained commission approval may recover before beginning construction

20131472e1

work are those that are previously approved or necessary to maintain the license or certification.

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

a. The plant remains feasible; and

b. The projected costs for the plant are reasonable.

(f) 1. If a utility has not begun construction of a plant within:

a. Ten years after the date on which the utility obtains a combined license from the Nuclear Regulatory Commission for a nuclear power plant or a certification for an integrated gasification combined cycle power plant, the utility must petition the commission to preserve the opportunity for future recovery under this section for costs relating to that plant.

The commission must determine whether the utility remains intent on building the plant.

(I) If the commission finds that the utility remains intent on building the plant, the utility may continue to recover costs under this section.

(II) If the commission finds a lack of such intent, it may enter an order prohibiting recovery of any future costs relating to the plant under this section.

b. Twenty years after the date on which the utility obtains a combined license from the Nuclear Regulatory Commission for a nuclear power plant or a certification for an integrated gasification combined cycle power plant, the utility may not, under this section, recover future costs relating to that plant.

2. Consistent with subsection (4), nothing in this section shall preclude a utility from recovering the full revenue

20131472e1

146 requirements of the nuclear power plant or integrated  
147 gasification combined cycle power plant in base rates upon the  
148 commercial in-service date.

149       3. Beginning January 1, 2014, in making its determination  
150 for any cost recovery under this paragraph, the commission may  
151 find that a utility intends to construct a nuclear or integrated  
152 gasification combined cycle power plant only if the utility  
153 proves by a preponderance of the evidence that it has committed  
154 sufficient, meaningful, and available resources to enable the  
155 project to be completed and that its intent is realistic and  
156 practical.

157       (6) If the utility does elects not to complete ~~or is~~  
158 ~~precluded from completing~~ construction of the nuclear power  
159 plant, including new, expanded, or relocated electrical  
160 transmission lines or facilities necessary thereto, or of the  
161 integrated gasification combined cycle power plant, the utility  
162 shall be allowed to recover all prudent preconstruction and  
163 construction costs incurred following the commission's issuance  
164 of a final order granting a determination of need for the  
165 nuclear power plant and electrical transmission lines and  
166 facilities necessary thereto or for the integrated gasification  
167 combined cycle power plant. The utility shall recover such costs  
168 through the capacity cost recovery clause over a period equal to  
169 the period during which the costs were incurred or 5 years,  
170 whichever is greater. The unrecovered balance during the  
171 recovery period will accrue interest at the utility's weighted  
172 average cost of capital as reported in the commission's earnings  
173 surveillance reporting requirement for the prior year. However,  
174 if the utility elects not to complete construction of the

20131472e1

175       nuclear power plant, rather than being precluded from completing  
176       such construction, the utility may not recover or retain any  
177       rate of return under this section. Any cost recovery after the  
178       date of the decision not to complete construction of the plant  
179       may not include a rate of return. A utility that elects not to  
180       complete construction shall refund to its customers the costs  
181       recovered before the date of the decision which are attributable  
182       to a recovery of a rate of return.

183       Section 2. This act does not apply to costs incurred, or  
184       contracts or settlement agreements entered into, before July 1,  
185       2013. It also does not apply if, on or before that date, the  
186       Public Service Commission receives written notice that a utility  
187       has elected not to complete construction of a power plant.

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