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1
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 an effective
14 date.

15
16 Be It Enacted by the Legislature of the State of Florida:

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

20 366.93 Cost recovery for the siting, design, licensing, and
21 construction of nuclear and integrated gasification combined
22 cycle power plants.—

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

24 (a) "Cost" includes, but is not limited to, all capital
25 investments, including rate of return, any applicable taxes, and
26 all expenses, including operation and maintenance expenses,
27 related to or resulting from the siting, licensing, design,
28 construction, or operation of the nuclear power plant, including
29 new, expanded, or relocated electrical transmission lines or

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30 facilities of any size which ~~that~~ are necessary thereto, or of
31 the integrated gasification combined cycle power plant.

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

34 (c) "Integrated gasification combined cycle power plant" or
35 "plant" means an electrical power plant as defined in s.
36 403.503(14) which ~~that~~ uses synthesis gas produced by integrated
37 gasification technology.

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

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

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

50 (2) Within 6 months after the enactment of this act, the
51 commission shall establish, by rule, alternative cost recovery
52 mechanisms for the recovery of costs incurred in the siting,
53 design, licensing, and construction of a nuclear power plant,
54 including new, expanded, or relocated electrical transmission
55 lines and facilities that are necessary thereto, or of an
56 integrated gasification combined cycle power plant. Such
57 mechanisms must ~~shall~~ be designed to promote utility investment
58 in nuclear or integrated gasification combined cycle power

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59 plants and allow for the recovery in rates of all prudently
60 incurred costs, including ~~and shall include~~, but not be limited
61 to:

62 (a) Recovery through the capacity cost recovery clause of
63 any preconstruction costs.

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

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

83 (b) During the time that a utility seeks to obtain a
84 combined license from the Nuclear Regulatory Commission for a
85 nuclear power plant or a certification for an integrated
86 gasification combined cycle power plant, the utility may recover
87 only costs related to, or necessary for, obtaining such

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88 licensing or certification.

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

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

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

99 a. The plant remains feasible; and

100 b. The projected costs for the plant are reasonable.

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

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

111 1. The only costs that a utility that has obtained
112 commission approval may recover before beginning construction
113 work are those that are previously approved or necessary to
114 maintain the license or certification.

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

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117 a. The plant remains feasible; and

118 b. The projected costs for the plant are reasonable.

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

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

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

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

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

140 2. Consistent with subsection (4), nothing in this section
141 shall preclude a utility from recovering the full revenue
142 requirements of the nuclear power plant or integrated
143 gasification combined cycle power plant in base rates upon the
144 commercial in-service date.

145 3. Beginning January 1, 2014, in making its determination

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146 for any cost recovery under this paragraph, the commission may
147 find that a utility intends to construct a nuclear or integrated
148 gasification combined cycle power plant only if the utility
149 proves by a preponderance of the evidence that it has committed
150 sufficient, meaningful, and available resources to enable the
151 project to be completed and that its intent is realistic and
152 practical.

153 Section 2. This act shall take effect July 1, 2013.