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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/21/2019	.	
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The Committee on Infrastructure and Security (Gruters)
recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 366.96, Florida Statutes, is created to
read:

366.96 Storm protection plan cost recovery.-

(1) The Legislature finds that:

(a) During extreme weather conditions, high winds can cause
vegetation and debris to blow into and damage electrical



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11 transmission and distribution facilities, resulting in power
12 outages.

13 (b) A majority of the power outages that occurred during
14 the recent extreme weather conditions in the state were caused
15 by vegetation blown by the wind.

16 (c) It is in the public interest to promote overhead
17 hardening of electrical transmission and distribution
18 facilities, the undergrounding of certain electrical
19 distribution lines, and vegetation management in this state.

20 (d) Protecting and strengthening transmission and
21 distribution electric utility infrastructure from extreme
22 weather conditions will reduce restoration costs and outage
23 times to customers and improve overall service reliability for
24 customers.

25 (e) When considering costs, reliability, storm protection
26 and restoration, and the public convenience, it is in the
27 state's best interest that utilities focus primarily on
28 distribution laterals when undergrounding electric distribution
29 lines.

30 (f) It is in the public interest for each utility to
31 mitigate additional costs to utility customers when developing
32 transmission and distribution storm hardening plans.

33 (g) All customers benefit from the reduced costs of storm
34 restoration.

35 (2) As used in this section, the term:

36 (a) "Public utility" or "utility" has the same meaning as
37 in s. 366.02(1), except that this section does not apply to a
38 gas utility.

39 (b) "Transmission and distribution storm protection plan"



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40 or "plan" means a plan for the overhead hardening of electric
41 transmission and distribution facilities, undergrounding of
42 electric distribution facilities, and vegetation management.

43 (c) "Transmission and distribution storm protection plan
44 costs" means the reasonable and prudent costs to implement an
45 approved transmission and distribution storm protection plan.

46 (d) "Vegetation management" means the actions a public
47 utility takes to prevent or curtail vegetation from interfering
48 with public utility infrastructure. The term includes the mowing
49 of vegetation, application of herbicides, trimming of trees, and
50 removal of trees or brush near and around electric transmission
51 and distribution facilities.

52 (3) Each public utility shall file for commission review, a
53 transmission and distribution storm protection plan that covers
54 the utility's immediate 10-year planning period. The commission
55 must approve or modify the plan within 6 months after the public
56 utility files the plan with the commission. The commission must
57 give due consideration to all of the following:

58 (a) Whether the plan enhances reliability, strengthens
59 infrastructure, and reduces restoration costs and outage times
60 in a prudent, practical, and cost-efficient manner, including
61 whether the plan prioritizes areas of lower reliability
62 performance.

63 (b) Whether storm protection of transmission and
64 distribution infrastructure is feasible, reasonable, or
65 practical in certain areas of the utility's service territory,
66 including in flood zones and rural areas.

67 (c) The estimated rate impact that will result from the
68 implementation of the public utility's proposed transmission and



69 distribution storm protection plan during the first 3 years
70 addressed in the plan.

71 (4) Each public utility must submit an updated transmission
72 and distribution storm protection plan at least every 3 years
73 after commission approval of its most recent plan. The
74 commission shall approve or modify each updated plan pursuant to
75 the criteria set forth in subsection (3).

76 (5) After a storm protection plan has been approved, costs
77 to implement the plan are not subject to challenge unless the
78 commission finds that certain costs were imprudently incurred.
79 Proceeding with actions to implement the plan does not
80 constitute and is not evidence of imprudence. The commission
81 shall conduct an annual proceeding to allow a public utility to
82 recover prudently incurred transmission and distribution storm
83 protection plan costs through a storm protection cost recovery
84 clause. Once the commission determines that the costs were
85 prudently incurred, the costs are not subject to disallowance or
86 further prudence review, except for situations involving fraud,
87 perjury, or the intentional withholding of key information by
88 the public utility.

89 (6) The annual transmission and distribution storm
90 protection plan costs recoverable through the storm protection
91 cost recovery clause do not include costs recovered through the
92 public utility's base rates and must be allocated to customer
93 classes pursuant to the rate design most recently approved by
94 the commission.

95 (7) If a capital expenditure cost is recoverable through a
96 storm protection cost recovery clause, the public utility may
97 recover the annual depreciation on such cost, calculated at the



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98 public utility's current approved depreciation rates, and a
99 return on the undepreciated balance of the costs calculated at
100 the public utility's weighted average cost of capital using the
101 return on equity last approved by the commission in a rate case
102 or settlement order.

103 (8) The commission shall adopt rules to implement and
104 administer this section.

105 Section 2. This act shall take effect July 1, 2019.

107 ===== T I T L E A M E N D M E N T =====

108 And the title is amended as follows:

109 Delete everything before the enacting clause
110 and insert:

111 A bill to be entitled
112 An act relating to public utility storm protection
113 plans; creating s. 366.96, F.S.; providing legislative
114 findings; defining terms; requiring public utilities
115 to individually submit to the Public Service
116 Commission, for review and approval, a transmission
117 and distribution storm protection plan; requiring
118 utilities to update their respective plans on a
119 specified basis; requiring the commission to approve
120 or modify submitted plans within a specified
121 timeframe, taking into consideration specified
122 factors; requiring the commission to conduct an annual
123 proceeding to allow utilities to justify and recover
124 certain costs through a storm protection cost recovery
125 clause; providing that a party may challenge the
126 prudence of certain costs; providing that utilities



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127 may not include certain costs in their base rates;
128 providing for the allocation of such costs;
129 authorizing utilities to recover depreciation on
130 certain capital costs through the recovery clause;
131 requiring the commission to adopt rules; providing an
132 effective date.