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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



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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.