

By Representative Fuller

1                                   A bill to be entitled  
2           An act relating to electric power service;  
3           providing a short title; amending s. 366.04,  
4           F.S.; prohibiting the Public Service Commission  
5           from approving certain liabilities or  
6           obligations of certain public utilities;  
7           providing an exception; granting the commission  
8           jurisdiction over operation of a coordinated  
9           electric power grid; requiring the commission  
10          to provide for fair and efficient operation of  
11          the power grid; restricting certain activities  
12          by the commission; amending s. 366.041, F.S.;  
13          requiring the commission to consider certain  
14          attributes of service interruptions in setting  
15          rates and charges; creating s. 366.042, F.S.;  
16          providing definitions; providing for rate  
17          reductions; requiring the commission to  
18          determine the average southeastern rate for  
19          each class of electric service; specifying  
20          limitations on rate charges by public  
21          utilities; requiring a public utility to  
22          initiate a full rate case before the commission  
23          under certain circumstances; providing  
24          requirements; requiring compliance with certain  
25          rate requirements by a time certain; creating  
26          s. 366.043, F.S.; providing for publication of  
27          electric service interruption information;  
28          creating s. 366.044, F.S.; providing  
29          legislative findings; prohibiting the  
30          commission from approving certain rates,  
31          charges, fees, pass-throughs, or adjustments;

1 requiring the commission to review certain  
2 historic electric dockets; providing for public  
3 hearings on such dockets; providing for refunds  
4 of certain charges; amending s. 366.06, F.S.;  
5 requiring the commission to conduct regular  
6 revenue requirements analysis cases for certain  
7 purposes; providing requirements and  
8 procedures; providing an effective date.  
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10 WHEREAS, a low-cost, reliable electric supply is vital  
11 to the health, safety, and welfare of Floridians and the  
12 economic development of this state, and

13 WHEREAS, Florida residents have the highest electric  
14 bills in the southeastern United States and the second highest  
15 electric bills of any state in the nation, and

16 WHEREAS, industrial electric rates in Florida are the  
17 highest in the southeastern United States and the cost of  
18 electricity is a major factor in the ability of this state to  
19 attract and retain businesses that will provide employment for  
20 Floridians, and

21 WHEREAS, businesses are experiencing record power  
22 outages that result in untold lost production and adversely  
23 impact their ability to effectively and competitively manage  
24 their operations, and

25 WHEREAS, there has not been a full rate case hearing in  
26 this state since 1985 and the true cost of providing electric  
27 service has not been proven by Florida's electric utilities in  
28 over 14 years, and

29 WHEREAS, the privilege of operating a monopoly  
30 franchise for electric service in this state carries with it  
31 the obligation to provide reliable electric service at the

1 lowest possible price to the residents of this state, NOW,  
2 THEREFORE,

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4 Be It Enacted by the Legislature of the State of Florida:

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6 Section 1. This act may be cited as the "Florida  
7 Electric Rate Reduction, Reliability, and Fairness Act."

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9 Section 2. Subsections (1) and (5) of section 366.04,  
10 Florida Statutes, are amended, and subsection (7) is added to  
11 said section, to read:

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366.04 Jurisdiction of commission.--

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14 (1)(a) In addition to its existing functions, the  
15 commission shall have jurisdiction to regulate and supervise  
16 each public utility with respect to its rates and service;  
17 assumption by it of liabilities or obligations as guarantor,  
18 endorser, or surety; and the issuance and sale of its  
19 securities, except a security which is a note or draft  
20 maturing not more than 1 year after the date of such issuance  
21 and sale and aggregating (together with all other  
22 then-outstanding notes and drafts of a maturity of 1 year or  
23 less on which such public utility is liable) not more than 5  
24 percent of the par value of the other securities of the public  
25 utility then outstanding. In the case of securities having no  
26 par value, the par value for the purpose of this section shall  
27 be the fair market value as of the date of issue. The  
28 commission, upon application by a public utility, may  
29 authorize the utility to issue and sell securities of one or  
30 more offerings, or of one or more types, over a period of up  
31 to 12 months; or, if the securities are notes or drafts  
maturing not more than 1 year after the date of issuance and  
sale, the commission, upon such application, may authorize the

1 utility to issue and sell such securities over a period of up  
2 to 24 months. The commission may take final action to grant  
3 an application by a public utility to issue and sell  
4 securities or to assume liabilities or obligations after  
5 having given notice in the Florida Administrative Weekly  
6 published at least 7 days in advance of final agency action.  
7 In taking final action on such application, the commission may  
8 deny authorization for the issuance or sale of a security or  
9 assumption of a liability or obligation if the security,  
10 liability, or obligation is for nonutility purposes; and shall  
11 deny authorization for the issuance or sale of a security or  
12 assumption of a liability or obligation if the financial  
13 viability of the public utility is adversely affected such  
14 that the public utility's ability to provide reasonable  
15 service at reasonable rates is jeopardized. Securities issued  
16 by a public utility or liabilities or obligations assumed by a  
17 public utility as guarantor, endorser, or surety pursuant to  
18 an order of the commission, which order is certified by the  
19 clerk of the commission and which order approves or authorizes  
20 the issuance and sale of such securities or the assumption of  
21 such liabilities or obligations, shall not be invalidated by a  
22 modification, repeal, or amendment to that order or by a  
23 supplemental order; however, the commission's approval of the  
24 issuance of securities or the assumption of liabilities or  
25 obligations shall constitute approval only as to the legality  
26 of the issue or assumption, and in no way shall it be  
27 considered commission approval of the rates, service,  
28 accounts, valuation, estimates, or determinations of cost or  
29 any other such matter. The jurisdiction conferred upon the  
30 commission shall be exclusive and superior to that of all  
31 other boards, agencies, political subdivisions,

1 municipalities, towns, villages, or counties, and, in case of  
2 conflict therewith, all lawful acts, orders, rules, and  
3 regulations of the commission shall in each instance prevail.

4 (b) The commission shall not approve the assumption of  
5 liabilities or obligations as guarantor, endorser, or surety  
6 for, or the issuance or sale of securities by, any public  
7 utility which has, during the preceding 2 years, invested in,  
8 purchased, or constructed, on its own or through a parent,  
9 sister, or affiliated company, an electric generating plant  
10 outside of this state unless the public utility has electric  
11 reserve margins in this state which equal or exceed 20  
12 percent.

13 (5) The commission shall further have jurisdiction  
14 over the planning, development, operation, and maintenance of  
15 a coordinated electric power grid throughout Florida to assure  
16 an adequate and reliable source of energy for operational and  
17 emergency purposes in Florida and the avoidance of further  
18 uneconomic duplication of generation, transmission, and  
19 distribution facilities. In order to achieve the fair and  
20 efficient operation of the electric power grid, the commission  
21 shall ensure that no single utility, acting on its own or  
22 together with another utility, is able to exercise excessive  
23 control over the flow of electricity across the grid or  
24 otherwise exert control over the grid which would hinder the  
25 development of an efficient, fair, and competitive wholesale  
26 market for electricity.

27 (7) The commission shall not lobby, advocate, or take  
28 any public position with respect to proposed federal  
29 legislation unless:

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1       (a) Such action will advance a specific energy policy  
2 objective set forth in this chapter relating to the electric  
3 industry.

4       (b) The commission has first held a public meeting at  
5 which all interested parties are given an opportunity to voice  
6 their opinions on the proposed federal legislation and  
7 proposed position of the commission.

8       Section 3. Subsection (1) of section 366.041, Florida  
9 Statutes, is amended to read:

10       366.041 Rate fixing; adequacy of facilities as  
11 criterion.--

12       (1) In fixing the just, reasonable, and compensatory  
13 rates, charges, fares, tolls, or rentals to be observed and  
14 charged for service within the state by any and all public  
15 utilities under its jurisdiction, the commission is authorized  
16 to give consideration, among other things, to the efficiency,  
17 sufficiency, and adequacy of the facilities provided and the  
18 services rendered; the cost of providing such service and the  
19 value of such service to the public; the ability of the  
20 utility to improve such service and facilities; and energy  
21 conservation and the efficient use of alternative energy  
22 resources; provided that no public utility shall be denied a  
23 reasonable rate of return upon its rate base in any order  
24 entered pursuant to such proceedings. In its consideration  
25 thereof, the commission shall have authority, and it shall be  
26 the commission's duty, to hear service complaints, if any,  
27 that may be presented by subscribers and the public during any  
28 proceedings involving such rates, charges, fares, tolls, or  
29 rentals; however, no service complaints shall be taken up or  
30 considered by the commission at any proceedings involving  
31 rates, charges, fares, tolls, or rentals unless the utility

1 has been given at least 30 days' written notice thereof, and  
2 any proceeding may be extended, prior to final determination,  
3 for such period; further, no order hereunder shall be made  
4 effective until a reasonable time has been given the utility  
5 involved to correct the cause of service complaints,  
6 considering the factor of growth in the community and  
7 availability of necessary equipment. In the commission's  
8 consideration of rates, charges, fares, tolls, or rentals for  
9 electric service, the commission shall consider the frequency  
10 and duration of service interruptions by a utility due to lack  
11 of adequate electric reserve margins. Service interruptions  
12 include all interruptions of normal continuous electric  
13 service, including reductions in voltages and momentary  
14 interruptions.

15 Section 4. Sections 366.042, 366.043, and 366.044,  
16 Florida Statutes, are created to read:

17 366.042 Electric rate reductions.--

18 (1) As used in this section:

19 (a) "Rate" or "rates" means the rates, charges,  
20 pass-throughs, adjustments, fares, tolls, or fees observed and  
21 charged for electric service within this state, but excludes  
22 any taxes.

23 (b) "Average southeastern rate" means the average rate  
24 for customers in the same class of service in the states of  
25 Georgia, Maryland, North Carolina, South Carolina, Virginia,  
26 West Virginia, Alabama, Kentucky, Mississippi, and Tennessee.

27 (2) The commission shall determine the average  
28 southeastern rate for each class of service using average  
29 revenue per kilowatt-hour information for electric utilities  
30 provided by the Energy Information Administration in the  
31 United States Department of Energy.

1       (3) Notwithstanding any other provision of law or any  
2 tariff filed with the commission, no public utility shall  
3 charge a rate to any customer in any:

4           (a) Residential class of service which exceeds the  
5 average southeastern rate for residential class customers;

6           (b) Commercial class of service which exceeds the  
7 average southeastern rate for commercial class customers; or

8           (c) Industrial class of service which exceeds the  
9 average southeastern rate for industrial class customers.

10       (4) No public utility shall charge any rate which  
11 exceeds the limits specified in this section until the utility  
12 initiates a full rate case before the commission and proves by  
13 clear and convincing evidence that the rate limitations are  
14 unjust according to the criteria specified in this chapter and  
15 that the cost of providing electric service in this state  
16 exceeds the average cost of providing electric service in the  
17 southeastern states. Public Counsel shall, and any affected  
18 customer may, be a party to such rate cases.

19       (5) Each public utility shall comply with the electric  
20 service rate requirements of this section no later than  
21 January 1, 2001.

22       366.043 Publication of service interruptions.--Each  
23 quarter, the commission shall publish, in one or more  
24 newspapers of general circulation in the service territory of  
25 each public utility, a summary of such utility's service  
26 interruptions or curtailments during the previous period,  
27 including, by customer class, the number of interruptions, the  
28 duration of interruptions, and the number of customers  
29 affected. Interruptions include any interruptions of normal  
30 continuous electric service including reductions in voltages  
31 and momentary interruptions.



1           366.044 Refunding of stranded costs improperly charged  
2 to consumers.--

3           (1) The Legislature finds that stranded costs have not  
4 arisen in this state and will not arise in this state unless  
5 there is retail competition in the provision of electric  
6 service in this state and that, therefore, it is unreasonable  
7 and unjust for any public utility to charge consumers for  
8 stranded costs.

9           (2) The commission shall not approve any electric  
10 rate, charge, fee, pass-through, or adjustment, including any  
11 adjustment to depreciation or amortization schedules, on the  
12 basis of avoidance or recovery of stranded costs.

13           (3)(a) The commission shall review the commission's  
14 electric dockets for the last 10 years and identify any docket  
15 or other proceeding in which the commission has approved the  
16 recovery of stranded costs by any public utility. In  
17 reviewing such electric dockets, the commission shall consider  
18 all potential methods of recovering stranded costs, including  
19 whether a public utility has accelerated or otherwise altered  
20 the utility's depreciation or amortization schedules. If the  
21 commission identifies a docket in which the commission  
22 approved the recovery of stranded costs, the commission shall  
23 initiate a new docket to determine by public hearing the  
24 amount of such stranded costs and order a refund to consumers  
25 of such amount with interest.

26           (b) The affected public utility may appear as a party  
27 in any docket initiated pursuant to this section and present  
28 evidence contesting whether consumers were charged for  
29 stranded costs and the amount of stranded costs to be  
30 refunded.

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1       (c) An electric consumer or group of consumers may  
2 petition the commission to conduct a public hearing pursuant  
3 to this section. The petition shall identify the public  
4 utility involved and the docket in which the commission  
5 approved the charging of stranded costs to consumers.

6           Section 5. Subsection (2) of section 366.06, Florida  
7 Statutes, is amended to read:

8           366.06 Rates; procedure for fixing and changing.--

9           (2)(a) Whenever the commission finds, upon request  
10 made or upon its own motion, that the rates demanded, charged,  
11 or collected by any public utility for public utility service,  
12 or that the rules, regulations, or practices of any public  
13 utility affecting such rates, are unjust, unreasonable,  
14 unjustly discriminatory, or in violation of law; that such  
15 rates are insufficient to yield reasonable compensation for  
16 the services rendered; that such rates yield excessive  
17 compensation for services rendered; or that such service is  
18 inadequate or cannot be obtained, the commission shall order  
19 and hold a public hearing, giving notice to the public and to  
20 the public utility, and shall thereafter determine just and  
21 reasonable rates to be thereafter charged for such service and  
22 promulgate rules and regulations affecting equipment,  
23 facilities, and service to be thereafter installed, furnished,  
24 and used.

25           (b) During the 5-year period starting January 1, 2000,  
26 and ending December 31, 2004, and during each successive  
27 5-year period, the commission shall conduct at least one full  
28 revenue requirements analysis case to determine and fix fair,  
29 just, and reasonable rates, charges, and fares that may be  
30 charged or collected by each public utility for the utility's  
31 electric service. The Public Counsel shall be a party to each

1 case and shall zealously advocate for the lowest possible  
2 rates for electric service for the citizens of this state.  
3 The Public Counsel may not agree to any settlement or  
4 compromise of any such case until after such time as the  
5 Public Counsel has obtained substantial discovery from the  
6 affected public utility concerning the utility's cost of  
7 service. Any customer of the public utility and any other  
8 affected party may be a party to the case. Nothing in this  
9 subsection shall prevent the commission from conducting cases  
10 more frequently than once every 5 years.

11 Section 6. This act shall take effect July 1, 2000.

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HOUSE SUMMARY

Prohibits the Public Service Commission from approving liabilities or obligations of a public utility which invests in electric power generating plants in other states and fails to maintain at least a 20 percent reserve margin in Florida.

Grants the commission jurisdiction over operation of a coordinated electric power grid, requires the commission to provide for fair and efficient operation of the power grid by ensuring that no single utility exercises excessive control over the grid, and restricts the commission's federal lobbying activities.

Requires the commission to consider service interruption frequencies and durations in setting rates and charges.

Provides for rate reductions by requiring the commission to determine the average southeastern rate for each class of electric service and specifying limitations on rate charges by public utilities.

Requires public utilities to publish electric service interruption information.

Prohibits the commission from approving rates, charges, fees, pass-throughs, or adjustments based on stranded costs, requires the commission to review past 10-year electric dockets for stranded costs evidence in the commission's rate cases, and provides for public hearings and refunds of such costs.

See bill for details.