

By the Committee on Natural Resources; and Senators Clary and Peadar

312-1966-02

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A bill to be entitled
An act relating to environmental cost recovery
for electric utilities; amending s. 366.8255,
F.S.; redefining the term "environmental
compliance costs" to include certain costs
relating to air quality; providing an effective
date.

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

Section 1. Section 366.8255, Florida Statutes, is
amended to read:

366.8255 Environmental cost recovery.--

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

(a) "Electric utility" or "utility" means any
investor-owned electric utility that owns, maintains, or
operates an electric generation, transmission, or distribution
system within the State of Florida and that is regulated under
this chapter.

(b) "Commission" means the Florida Public Service
Commission.

(c) "Environmental laws or regulations" includes all
federal, state, or local statutes, administrative regulations,
orders, ordinances, resolutions, or other requirements that
apply to electric utilities and are designed to protect the
environment.

(d) "Environmental compliance costs" includes all
costs or expenses incurred by an electric utility in complying
with environmental laws or regulations, including but not
limited to:

- 1 1. Inservice capital investments, including the
- 2 electric utility's last authorized rate of return on equity
- 3 thereon;
- 4 2. Operation and maintenance expenses;
- 5 3. Fuel procurement costs;
- 6 4. Purchased power costs;
- 7 5. Emission allowance costs; ~~and~~
- 8 6. Direct taxes on environmental equipment; and
- 9 7. Costs or expenses prudently incurred by an electric

10 utility pursuant to an agreement entered into prior to January
11 1, 2003, between the electric utility and the Florida
12 Department of Environmental Protection or the United States
13 Environmental Protection Agency for the purpose of ensuring
14 compliance with ozone ambient air quality standards by an
15 electrical generating facility owned by the electric utility.

16 (2) An electric utility may submit to the commission a
17 petition describing the utility's proposed environmental
18 compliance activities and projected environmental compliance
19 costs in addition to any Clean Air Act compliance activities
20 and costs shown in a utility's filing under s. 366.825. If
21 approved, the commission shall allow recovery of the utility's
22 prudently incurred environmental compliance costs, including
23 the costs incurred in compliance with the Clean Air Act, and
24 any amendments thereto or any change in the application or
25 enforcement thereof, through an environmental compliance
26 cost-recovery factor that is separate and apart from the
27 utility's base rates. An adjustment for the level of costs
28 currently being recovered through base rates or other
29 rate-adjustment clauses must be included in the filing.

30 (3) The environmental compliance cost-recovery factor
31 must be set periodically, but at least annually, based on

1 projections of the utility's environmental compliance costs
2 during the forthcoming recovery period, and must be adjusted
3 for variations in line losses. The environmental compliance
4 cost-recovery factor must provide for periodic true-up of the
5 utility's actual environmental compliance costs with the
6 projections on which past factors have been set, and must
7 further require that any refund or collection made as part of
8 the true-up process include interest.

9 (4) Environmental compliance costs recovered through
10 the environmental cost-recovery factor shall be allocated to
11 the customer classes using the criteria set out in s.
12 366.06(1), taking into account the manner in which similar
13 types of investment or expense were allocated in the company's
14 last rate case.

15 (5) Recovery of environmental compliance costs under
16 this section does not preclude inclusion of such costs in base
17 rates in subsequent rate proceedings, if that inclusion is
18 necessary and appropriate; however, any costs recovered in
19 base rates may not also be recovered in the environmental
20 cost-recovery clause.

21 Section 2. This act shall take effect upon becoming a
22 law.

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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR
Senate Bill 1142

The committee substitute adds an additional category to the list of expenses that are recoverable through the environmental compliance cost-recovery factor that is separate from the utility's base rates. Included would be costs or expenses prudently incurred by an electric utility pursuant to an agreement entered into prior to January 1, 2003, between the electric utility and the Department of Environmental Protection or the U.S. Environmental Protection Agency for the purpose of ensuring compliance with ozone ambient air quality standards by an electrical generating facility owned by the electric utility.