

Bill No. CS for CS for SB 888

Barcode 140326

CHAMBER ACTION

Senate

House

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Comm: RCS
04/17/2006 05:55 PM

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The Committee on Ways and Means (Atwater) recommended the following amendment:

Senate Amendment (with title amendment)

On page 107, line 29 through page 108, line 3, delete those lines

and insert:

(4) In making its determination on a proposed electrical power plant using nuclear materials as fuel, the commission shall hold a hearing within 90 days after the filing of the petition to determine need and shall issue an order granting or denying the petition within 135 days after the date of the filing of the petition. The commission shall be the sole forum for the determination of this matter and the issues addressed in the petition, which accordingly shall not be reviewed in any other forum. In making its determination to either grant or deny the petition, the commission shall consider the need for electric system reliability and integrity, including fuel diversity, the need for base-load generating capacity, and the need for adequate electricity at

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1 a reasonable cost.

2 (a) The applicant's petition shall include:

3 1. A description of the need for the generation
4 capacity.

5 2. A description of how the proposed nuclear power
6 plant will enhance the reliability of electric power
7 production within the state by improving the balance of power
8 plant fuel diversity and reducing Florida's dependence on fuel
9 oil and natural gas.

10 3. A description of and a nonbinding estimate of the
11 cost of the nuclear power plant.

12 4. The annualized base revenue requirement for the
13 first 12 months of operation of the nuclear power plant.

14 (b) In making its determination, the commission shall
15 take into account matters within its jurisdiction, which it
16 deems relevant, including whether the nuclear power plant
17 will:

18 1. Provide needed base-load capacity.

19 2. Enhance the reliability of electric power
20 production within the state by improving the balance of power
21 plant fuel diversity and reducing Florida's dependence on fuel
22 oil and natural gas.

23 3. Provide the most cost-effective source of power,
24 taking into account the need to improve the balance of fuel
25 diversity, reduce Florida's dependence on fuel oil and natural
26 gas, reduce air emission compliance costs, and contribute to
27 the long-term stability and reliability of the electric grid.

28 (c) No provision of rule 25-22.082, Florida
29 Administrative Code, shall be applicable to a nuclear power
30 plant sited under this act, including provisions for cost
31 recovery, and an applicant shall not otherwise be required to

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1 secure competitive proposals for power supply prior to making
2 application under this act or receiving a determination of
3 need from the commission.

4 (d) The commission's determination of need for a
5 nuclear power plant shall create a presumption of public need
6 and necessity and shall serve as the commission's report
7 required by s. 403.507(4)(a). An order entered pursuant to
8 this section constitutes final agency action. Any petition for
9 reconsideration of a final order on a petition for need
10 determination shall be filed within 5 days after the date of
11 such order. The commission's final order, including any order
12 on reconsideration, shall be reviewable on appeal in the
13 Florida Supreme Court. Inasmuch as delay in the determination
14 of need will delay siting of a nuclear power plant or diminish
15 the opportunity for savings to customers under the federal
16 Energy Policy Act of 2005, the Supreme Court shall proceed to
17 hear and determine the action as expeditiously as practicable
18 and give the action precedence over matters not accorded
19 similar precedence by law.

20 (e) After a petition for determination of need for a
21 nuclear power plant has been granted, the right of a utility
22 to recover any costs incurred prior to commercial operation,
23 including, but not limited to costs associated with the
24 siting, design, licensing, or construction of the plant, shall
25 not be subject to challenge unless and only to the extent the
26 commission finds, based on a preponderance of the evidence
27 adduced at a hearing before the commission under s. 120.57,
28 Florida Statutes, that certain costs were imprudently
29 incurred. Proceeding with the construction of the nuclear
30 power plant following an order by the commission approving the
31 need for the nuclear power plant under this act shall not

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1 constitute or be evidence of imprudence. Imprudence also shall
 2 not include any cost increases due to events beyond the
 3 utility's control. Further, a utility's right to recover
 4 costs associated with a nuclear power plant may not be raised
 5 in any other forum or in the review of proceedings in such
 6 other forum. Costs incurred prior to commercial operation
 7 shall be recovered pursuant to chapter 366, Florida Statutes.

8 Section 23. Section 366.93, Florida Statutes, is
 9 created to read:

10 366.93 Cost recovery for the siting, design, licensing,
 11 and construction of nuclear power plants.--

12 (1) As used in this section, the term;

13 (a) "Cost" includes, but is not limited to, all
 14 capital investments, including rate of return, any applicable
 15 taxes, and all expenses, including operation and maintenance
 16 expenses, related to or resulting from the siting, licensing,
 17 design, construction or operation of the nuclear power plant.

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

20 (c) "Nuclear power plant" or "plant" is an electrical
 21 power plant as defined in s. 403.503(12) that uses nuclear
 22 materials for fuel.

23 (d) "Pre-construction" is that period of time after a
 24 site has been selected through and including the date the
 25 utility completes site clearing work. Pre-construction costs
 26 shall be afforded deferred accounting treatment and shall
 27 accrue a carrying charge equal to the utility's AFUDC rate
 28 until recovered in rates.

29 (2) Within six months after the enactment of this act,
 30 the commission shall establish, by rule, alternative cost
 31 recovery mechanisms for the recovery of costs incurred in the

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1 siting, design, licensing and construction of a nuclear power
2 plant. Such mechanisms shall be designed to promote utility
3 investment in nuclear power plants and allow for the recovery
4 in rates all prudently incurred costs, and shall include, but
5 are not limited to:

6 (a) Recovery through the capacity cost recovery clause
7 of any pre-construction costs.

8 (b) Recovery through an incremental increase in the
9 utility's capacity cost recovery clause rates of the carrying
10 costs on the utility's projected construction cost balance
11 associated with the nuclear power plant. To encourage
12 investment and provide certainty, for nuclear power plant need
13 petitions submitted on or before December 31, 2010, associated
14 carrying costs shall be equal to the pre-tax AFUDC in effect
15 upon this bill becoming law. For nuclear power plants for
16 which need petitions are submitted after December 31, 2010,
17 the utility's existing pre-tax AFUDC rate is presumed to be
18 appropriate unless determined otherwise by the commission in
19 the determination of need for the nuclear power plant.

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

23 (4) When the nuclear power plant is placed in
24 commercial service, the utility shall be allowed to increase
25 its base rate charges by the projected annual revenue
26 requirements of the nuclear power plant based on the
27 jurisdictional annual revenue requirements of the plant for
28 the first twelve months of operation. The rate of return on
29 capital investments shall be calculated using the utility's
30 rate of return last approved by the commission prior to the
31 commercial in-service date of the nuclear power plant. If any

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1 existing generating plant is retired as a result of operation
2 of the nuclear power plant, the commission shall allow for the
3 recovery, through an increase in base rate charges, of the net
4 book value of the retired plant over a period not to exceed
5 five years.

6 (5) The utility shall report to the commission
7 annually the budgeted and actual costs as compared to the
8 estimated in-service cost of the nuclear power plant provided
9 by the utility pursuant to s. 403.519(4) until the commercial
10 operation of the nuclear power plant. The utility shall
11 provide such information on an annual basis following the
12 final order by the commission approving the determination of
13 need for the nuclear power plant, with the understanding that
14 some costs may be higher than estimated and other costs may be
15 lower.

16 (6) In the event the utility elects not to complete or
17 is precluded from completing construction of the nuclear power
18 plant, the utility shall be allowed to recover all prudent
19 pre-construction and construction costs incurred following the
20 commission's issuance of a final order granting a
21 determination of need for the nuclear power plant. The utility
22 shall recover such costs through the capacity cost recovery
23 clause over a period equal to the period during which the
24 costs were incurred or five years, whichever were greater. The
25 un-recovered balance during the recovery period will accrue
26 interest at the utility's weighted average cost of capital as
27 reported in the commission's earnings surveillance reporting
28 requirement for the prior year.

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

2 And the title is amended as follows:

3 On page 7, line 1, after the semicolon,

4

5 and insert:

6 providing for determination of need for nuclear

7 power plant; providing exemption from purchased

8 power supply bid rule; creating s. 366.93,

9 F.S., providing definitions; requiring the

10 Public Service Commission to implement rules

11 related to nuclear power plant cost recovery;

12 requiring a report;

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