

1                                   A bill to be entitled  
 2       An act relating to cost recovery for the siting, design,  
 3       licensing, and construction of nuclear and integrated  
 4       gasification combined cycle power plants; amending s.  
 5       366.93, F.S.; revising provisions for the recovery of  
 6       costs; authorizing a utility to recover costs through  
 7       rates upon a determination by the Public Service  
 8       Commission that the costs are prudent; providing that  
 9       approved rates shall not become effective prior to a  
 10      certain date; providing for adjustment of rates approved  
 11      without a determination that the costs are prudent;  
 12      providing for refunds to customers; removing a provision  
 13      for recovery of the net value of displaced generating  
 14      plants; removing provisions that allowed recovery of  
 15      certain costs when the utility elects not to complete  
 16      construction of a nuclear power plant or integrated  
 17      gasification combined cycle power plant; requiring refunds  
 18      to customers of amounts recovered for an abandoned project  
 19      and specifying manner of refunds; providing an effective  
 20      date.

21  
 22   Be It Enacted by the Legislature of the State of Florida:

23  
 24           Section 1.   Section 366.93, Florida Statutes, is amended to  
 25   read:

26           366.93   Cost recovery for the siting, design, licensing,  
 27   and construction of nuclear and integrated gasification combined  
 28   cycle power plants.--

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

30 (a) "Cost" includes, but is not limited to, all capital  
31 investments, including rate of return, any applicable taxes, and  
32 all expenses, including operation and maintenance expenses,  
33 related to or resulting from the siting, licensing, design,  
34 construction, or operation of the nuclear power plant, including  
35 new, expanded, or relocated electrical transmission lines or  
36 facilities of any size that are necessary thereto, or of the  
37 integrated gasification combined cycle power plant.

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

40 (c) "Integrated gasification combined cycle power plant"  
41 or "plant" means an electrical power plant as defined in s.  
42 403.503(14) that uses synthesis gas produced by integrated  
43 gasification technology.

44 (d) "Nuclear power plant" or "plant" means an electrical  
45 power plant as defined in s. 403.503(14) that uses nuclear  
46 materials for fuel.

47 (e) "Power plant" or "plant" means a nuclear power plant  
48 or an integrated gasification combined cycle power plant.

49 (f) "Preconstruction" is that period of time after a site,  
50 including any related electrical transmission lines or  
51 facilities, has been selected through and including the date the  
52 utility completes site clearing work. Preconstruction costs  
53 shall be afforded deferred accounting treatment and shall accrue  
54 a carrying charge equal to the utility's allowance for funds  
55 during construction (AFUDC) rate until recovered in rates.

56           (2) Within 6 months after the enactment of this act, the  
57 commission shall establish, by rule, alternative cost recovery  
58 mechanisms for the recovery of costs incurred in the siting,  
59 design, licensing, and construction of a nuclear power plant,  
60 including new, expanded, or relocated electrical transmission  
61 lines and facilities that are necessary thereto, or of an  
62 integrated gasification combined cycle power plant. Such  
63 mechanisms shall be designed to promote utility investment in  
64 nuclear or integrated gasification combined cycle power plants  
65 and allow for the recovery in rates of all prudently incurred  
66 costs and shall include, but not be limited to:

67           (a) Recovery through the capacity cost recovery clause of  
68 any preconstruction costs.

69           (b) Recovery through an incremental increase in the  
70 utility's capacity cost recovery clause rates of the carrying  
71 costs on the utility's projected construction cost balance  
72 associated with the nuclear or integrated gasification combined  
73 cycle power plant. To encourage investment and provide  
74 certainty, for nuclear or integrated gasification combined cycle  
75 power plant need petitions submitted on or before December 31,  
76 2010, associated carrying costs shall be equal to the pretax  
77 AFUDC in effect upon this act becoming law. For nuclear or  
78 integrated gasification combined cycle power plants for which  
79 need petitions are submitted after December 31, 2010, the  
80 utility's existing pretax AFUDC rate is presumed to be  
81 appropriate unless determined otherwise by the commission in the  
82 determination of need for the nuclear or integrated gasification  
83 combined cycle power plant.

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84 (3) After a petition for determination of need is granted,  
85 a utility may petition the commission for ~~cost~~ recovery of of  
86 prudently incurred costs as permitted by this section and  
87 commission rules. The utility may begin recovery of such costs  
88 through rates upon a determination by the commission that the  
89 costs are prudent, provided that the approved rates shall not  
90 become effective prior to January 1, 2011. Any rate currently in  
91 effect that permits recovery of costs subject to this section  
92 that the commission has not deemed prudent shall be adjusted to  
93 remove the impact of such costs, and the utility shall refund to  
94 its customers an amount equal to the costs removed, plus  
95 appropriate interest, through a credit on customer bills.

96 (4) When the nuclear or integrated gasification combined  
97 cycle power plant is placed in commercial service, the utility  
98 shall be allowed to increase its base rate charges by the  
99 projected annual revenue requirements of the nuclear or  
100 integrated gasification combined cycle power plant based on the  
101 jurisdictional annual revenue requirements of the plant for the  
102 first 12 months of operation. The rate of return on capital  
103 investments shall be calculated using the utility's rate of  
104 return last approved by the commission prior to the commercial  
105 inservice date of the nuclear or integrated gasification  
106 combined cycle power plant. ~~If any existing generating plant is~~  
107 ~~retired as a result of operation of the nuclear or integrated~~  
108 ~~gasification combined cycle power plant, the commission shall~~  
109 ~~allow for the recovery, through an increase in base rate~~  
110 ~~charges, of the net book value of the retired plant over a~~  
111 ~~period not to exceed 5 years.~~

112 (5) The utility shall report to the commission annually  
 113 the budgeted and actual costs as compared to the estimated  
 114 inservice cost of the nuclear or integrated gasification  
 115 combined cycle power plant provided by the utility pursuant to  
 116 s. 403.519(4), until the commercial operation of the nuclear or  
 117 integrated gasification combined cycle power plant. The utility  
 118 shall provide such information on an annual basis following the  
 119 final order by the commission approving the determination of  
 120 need for the nuclear or integrated gasification combined cycle  
 121 power plant, ~~with the understanding that some costs may be~~  
 122 ~~higher than estimated and other costs may be lower.~~

123 (6) If the utility elects not to complete ~~or is precluded~~  
 124 ~~from completing~~ construction of the nuclear power plant,  
 125 including new, expanded, or relocated electrical transmission  
 126 lines or facilities necessary thereto, or of the integrated  
 127 gasification combined cycle power plant, the commission shall  
 128 terminate the rates approved pursuant to this section with  
 129 respect to the abandoned project and order the utility to refund  
 130 to customers, as credits on customer bills, all amounts  
 131 recovered for the abandoned project. Credits shall be provided  
 132 in the same manner, at the same rate, and over the same period  
 133 of time in which the amounts were recovered. ~~shall be allowed to~~  
 134 ~~recover all prudent preconstruction and construction costs~~  
 135 ~~incurred following the commission's issuance of a final order~~  
 136 ~~granting a determination of need for the nuclear power plant and~~  
 137 ~~electrical transmission lines and facilities necessary thereto~~  
 138 ~~or for the integrated gasification combined cycle power plant.~~  
 139 ~~The utility shall recover such costs through the capacity cost~~

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140 ~~recovery clause over a period equal to the period during which~~  
141 ~~the costs were incurred or 5 years, whichever is greater. The~~  
142 ~~unrecovered balance during the recovery period will accrue~~  
143 ~~interest at the utility's weighted average cost of capital as~~  
144 ~~reported in the commission's earnings surveillance reporting~~  
145 ~~requirement for the prior year.~~

146 Section 2. This act shall take effect July 1, 2009.