



797272

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/23/2011	.	
	.	
	.	
	.	

The Committee on Environmental Preservation and Conservation (Jones) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Section 367.0819, Florida Statutes, is created to read:

367.0819 Recovery of costs for system improvement projects.-

(1) (a) In order to promote utility investment in system improvement projects, the commission shall allow a utility to recover prudently incurred capital costs related to nonrevenue-



797272

13 producing projects to enhance water quality, fire protection
14 reliability, and long-term system viability through a surcharge
15 collected pursuant to this section. The costs of existing or new
16 facilities to serve new customers are not recoverable through
17 this surcharge.

18 (b) For purposes of this section, a the term "nonrevenue-
19 producing project" means a project that is not constructed or
20 installed for the purpose of serving a new customer.

21 (2) A utility seeking to establish a surcharge pursuant to
22 this section must:

23 (a) Submit, for commission approval, the proposed surcharge
24 tariff establishing a formula for the calculation of rates
25 reflecting the surcharge, which rates provide for recovery of
26 depreciation and return on investment for each eligible project.
27 The return on investment for each eligible project must be based
28 on the utility's last authorized pretax rate of return. The
29 surcharge must be calculated, applied, and recovered in
30 accordance with the utility's last authorized rate structure.
31 Until the surcharge is reset pursuant to paragraph (4) (d), the
32 total cumulative amount of the surcharge revenue recovered by
33 the utility may not exceed 8 percent of the utility's total
34 revenues, excluding revenues collected through the surcharge,
35 for the preceding calendar year.

36 (b) Provide notice by mail of the initial surcharge tariff
37 filing to each customer in the affected service areas and
38 publish notice of the surcharge filing in a newspaper of general
39 circulation in the affected service areas.

40 (c) Before implementing a surcharge under this section, the
41 utility shall file a sworn affirmation as to the accuracy of the



797272

42 figures and calculations upon which surcharge or any adjustment
43 thereto is based, stating that the change in rates will not
44 cause the utility to exceed the range of its last authorized
45 rate of return on equity. Whoever makes a false statement in the
46 affirmation required under this paragraph, which statement he or
47 she does not believe to be true in regard to any material
48 matter, commits a felony of the third degree, punishable as
49 provided in s. 775.082, s. 775.083, or s. 775.084.

50 (d) If, within 15 months after the filing of a utility's
51 annual report required by s. 367.121, the commission finds that
52 the utility exceeded the range of its last authorized rate of
53 return on equity after the implementation of the surcharge
54 authorized by this section within the year for which the report
55 was filed, the commission may order the utility to refund, with
56 interest, the difference to the ratepayers and adjust rates
57 accordingly. This provision does require a bond or corporate
58 undertaking in order for the utility to implement the surcharge.

59 (3) A surcharge tariff submitted by a utility in compliance
60 with the requirements of paragraph (2) (a) is not subject to s.
61 367.091 and shall be approved as a matter of right without
62 hearing within 60 days after filing the surcharge tariff with
63 the commission.

64 (4) A surcharge established pursuant to this section shall
65 be:

66 (a) Presented as a separate line item on the customer's
67 bill and billed in accordance with the billing cycle in the
68 utility's approved tariff. Any changes in the surcharge must be
69 reflected on the first bill the customer receives following the
70 change of the surcharge.



797272

71 (b) Revaluated, and if necessary adjusted, on a quarterly
72 basis to reflect the costs of eligible projects placed into
73 service. The utility shall file the supporting data to increase
74 or reduce the surcharge with the commission for each revaluation
75 along with a sworn affirmation required by paragraph (2)(c), and
76 shall contemporaneously deliver copies of the supporting data
77 and the sworn affirmation to the Office of Public Counsel. The
78 surcharge adjustment is not be subject to s. 367.091 and shall
79 take effect without hearing 45 days after the supporting data
80 and sworn affirmation are filed with the commission and
81 delivered to the Office of Public Counsel.

82 (c) Subject to an annual reconciliation of revenues and
83 costs based on a reconciliation period of 12 months, such period
84 to begin on the date the surcharge tariff is approved as a
85 matter of right pursuant to subsection (3). Within 30 days after
86 the end of each reconciliation period, the utility shall file
87 with the commission, and deliver to the Office of Public
88 Counsel, a reconciliation report that shall compare the actual
89 surcharge revenues received and the actual eligible costs
90 incurred by the utility during the prior period along with the
91 sworn affirmation required by paragraph (2)(c). A reconciliation
92 report filed in accordance with these requirements shall be
93 administratively approved by the commission without hearing
94 within 45 days after filing. The difference between revenue and
95 costs shall be recovered or refunded, as appropriate, by the
96 utility without hearing as an automatic adjustment to the
97 subsequent surcharge calculation. Revenues in excess of system-
98 improvement costs shall be refunded with interest to customers
99 pursuant to the commission's rule on interest for water and



797272

100 wastewater utilities.

101 (d) Reset at zero as of the effective date of new base
102 rates that provide for prospective recovery of the costs that
103 had previously been recovered under the surcharge. Thereafter,
104 only the costs of new eligible projects that have not previously
105 been included in the base rate of the utility shall be reflected
106 in the surcharge.

107 (5) Recovery of project costs pursuant to this section does
108 not preclude such costs from being included in base rates in
109 subsequent rate proceedings. However, a project cost recovered
110 in base rates may not be recovered through a surcharge
111 established pursuant to this section.

112 (6) A project is eligible for recovery of costs through the
113 surcharge if it is:

114 (a) Completed and placed into service after the test year
115 upon which base rates were last established by the commission
116 for the utility; and

117 (b) For the construction of nonrevenue-producing
118 improvement projects that are used for the production,
119 treatment, transmission, storage, distribution, or provision of
120 potable or recycled water to the public or for the collection,
121 transportation, or disposal of wastewater for the public. Such
122 projects may include, but are not limited to, water quality
123 improvement projects designed to achieve primary or secondary
124 water standards as determined by the Department of Environmental
125 Protection, the United States Environmental Protection Agency,
126 or any other governmental entity having similar regulatory
127 jurisdiction; wastewater quality improvement projects; main,
128 service line, and valve replacement projects; main relining and



797272

129 rehabilitation projects; fire and flushing hydrant installation
130 and replacement projects; main extension to eliminate dead ends;
131 interconnection projects; water, wastewater, and reuse meter
132 installation and replacement projects; wastewater collection,
133 replacement, relining, and rehabilitation projects; and manhole
134 replacement and rehabilitation projects.

135 (7) Water and wastewater treatment includes production of
136 any sodium solution, excluding sodium hypochlorite, used in
137 conjunction with the treatment process, but does not include the
138 onsite manufacturing of liquid chlorine or bleach.

139 (8) Upon approval of the surcharge tariff, the utility
140 shall maintain and make available for public inspection during
141 normal business hours at each utility location or on the
142 utility's website a detailed schedule for each completed
143 project, including the plant account number and title, the
144 category of the project, the project name and description, the
145 cost of the project in the month of closing, and the month and
146 year of closing. Notice of the availability of the schedules for
147 public inspection shall be posted in each office of the utility.

148 (9) The commission may review the prudence of all projects
149 subject to the surcharge in the utility's next base rate
150 proceeding following the commission's initial approval of the
151 surcharge pursuant to subsection (3). Revenues from such
152 surcharges are subject to refund if the commission subsequently
153 determines that the costs of a project were not prudently
154 incurred or that the project is not used and useful in the
155 public service, and any such refund shall be made pursuant to
156 the commission's rule on refunds for water and wastewater
157 utilities.



797272

158 Section 2. This act shall take effect July 1, 2011.

159

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

161 And the title is amended as follows:

162

163 Delete everything before the enacting clause

164 and insert:

165 A bill to be entitled

166 An act relating to water and wastewater utilities;
167 creating s. 367.0819, F.S.; providing for recovery
168 through a surcharge of certain costs relating to water
169 and wastewater system improvement projects; defining a
170 the term "nonrevenue-producing project"; requiring
171 utilities to submit surcharge tariffs reflecting the
172 surcharge calculation for recovery of such costs to
173 the Florida Public Service Commission for approval and
174 to provide specified notice of such surcharge tariff
175 filings; providing for the automatic approval of the
176 surcharge tariff within a specified period after
177 filing the surcharge tariff with the commission;
178 requiring the utility to file a sworn affirmation as
179 to the accuracy of the figures and calculations;
180 providing for penalties; requiring the utility to
181 submit an annual report regarding the rate of return
182 to the commission; allowing the commission to order
183 the utility to make refunds, with interest, under
184 certain circumstances; requiring the surcharge notice
185 be presented as a separate line item on the customer's
186 bill; specifying a limitation for the surcharge



797272

187 amount; providing requirements for billing,
188 reconciliation, and quarterly adjustment of the
189 surcharge; specifying a limitation for recovery of
190 project costs; providing project eligibility criteria;
191 specifying water and wastewater treatment criteria;
192 providing requirements for notice, maintenance, and
193 availability of certain records; authorizing the
194 commission to review specified projects; providing
195 that surcharges are subject to refund under certain
196 conditions; providing an effective date.