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1 A bill to be entitled
2 An act relating to nuclear and integrated gasification
3 combined cycle power plants; amending s. 366.93, F.S.;
4 modifying an alternative cost recovery mechanism for
5 the recovery of costs for the siting, design,
6 licensing, and construction of nuclear and integrated
7 gasification combined cycle power plants; establishing
8 a procedure and requirements for cost recovery based
9 on preconstruction and construction phases; providing
10 that the commission may not determine that a utility
11 intends to complete construction of a power plant
12 unless the utility proves its efforts by a
13 preponderance of the evidence; providing that a
14 utility that elects not to complete construction of a
15 nuclear power plant may not recover or retain any rate
16 of return for related costs; exempting certain actions
17 taken before this act takes effect; providing an
18 effective date.

19
20 Be It Enacted by the Legislature of the State of Florida:

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22 Section 1. Subsections (1), (2), (3), and (6) of section
23 366.93, Florida Statutes, are amended to read:

24 366.93 Cost recovery for the siting, design, licensing, and
25 construction of nuclear and integrated gasification combined
26 cycle power plants.—

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

28 (a) "Cost" includes, but is not limited to, all capital
29 investments, including rate of return, any applicable taxes, and

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30 all expenses, including operation and maintenance expenses,
31 related to or resulting from the siting, licensing, design,
32 construction, or operation of the nuclear power plant, including
33 new, expanded, or relocated electrical transmission lines or
34 facilities of any size which ~~that~~ are necessary thereto, or of
35 the integrated gasification combined cycle power plant.

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

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

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

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

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

54 (2) Within 6 months after the enactment of this act, the
55 commission shall establish, by rule, alternative cost recovery
56 mechanisms for the recovery of costs incurred in the siting,
57 design, licensing, and construction of a nuclear power plant,
58 including new, expanded, or relocated electrical transmission

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59 lines and facilities that are necessary thereto, or of an
60 integrated gasification combined cycle power plant. Such
61 mechanisms must ~~shall~~ be designed to promote utility investment
62 in nuclear or integrated gasification combined cycle power
63 plants and allow for the recovery in rates of all prudently
64 incurred costs, including ~~and shall include~~, but not be limited
65 to:

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

68 (b) Recovery through an incremental increase in the
69 utility's capacity cost recovery clause rates of the carrying
70 costs on the utility's projected construction cost balance
71 associated with the nuclear or integrated gasification combined
72 cycle power plant. To encourage investment and provide
73 certainty, ~~for nuclear or integrated gasification combined cycle~~
74 ~~power plant need petitions submitted on or before December 31,~~
75 ~~2010,~~ associated carrying costs must ~~shall~~ be equal to the most
76 recently approved pretax AFUDC at the time an increment of cost
77 recovery is sought ~~in effect upon this act becoming law. For~~
78 ~~nuclear or integrated gasification combined cycle power plants~~
79 ~~for which need petitions are submitted after December 31, 2010,~~
80 ~~the 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.~~

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

87 (b) During the time that a utility seeks to obtain a

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88 combined license from the Nuclear Regulatory Commission for a
89 nuclear power plant or a certification for an integrated
90 gasification combined cycle power plant, the utility may recover
91 only costs related to, or necessary for, obtaining such
92 licensing or certification.

93 (c) After a utility obtains a license or certification, it
94 must petition the commission for approval before proceeding with
95 preconstruction work beyond those activities necessary to obtain
96 or maintain a license or certificate.

97 1. The only costs that a utility that has obtained a
98 license or certification may recover before obtaining commission
99 approval are those that are previously approved or necessary to
100 maintain the license or certification.

101 2. In order for the commission to approve preconstruction
102 work on a plant, it must determine that:

103 a. The plant remains feasible; and

104 b. The projected costs for the plant are reasonable.

105 (d) After a utility obtains approval to proceed with
106 postlicensure or postcertification preconstruction work, it must
107 petition the commission for approval of any preconstruction
108 materials or equipment purchases that exceed 1 percent of the
109 total projected cost for the project. Such petition shall be
110 reviewed and completed in the annual Nuclear Cost Recovery
111 Clause proceeding in which it is filed or in a separate
112 proceeding by the utility.

113 (e) A utility must petition the commission for approval
114 before beginning the construction phase.

115 1. The only costs that a utility that has obtained
116 commission approval may recover before beginning construction

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117 work are those that are previously approved or necessary to
118 maintain the license or certification.

119 2. In order for the commission to approve proceeding with
120 construction on a plant, it must determine that:

121 a. The plant remains feasible; and

122 b. The projected costs for the plant are reasonable.

123 (f)1. If a utility has not begun construction of a plant
124 within:

125 a. Ten years after the date on which the utility obtains a
126 combined license from the Nuclear Regulatory Commission for a
127 nuclear power plant or a certification for an integrated
128 gasification combined cycle power plant, the utility must
129 petition the commission to preserve the opportunity for future
130 recovery under this section for costs relating to that plant.
131 The commission must determine whether the utility remains intent
132 on building the plant.

133 (I) If the commission finds that the utility remains intent
134 on building the plant, the utility may continue to recover costs
135 under this section.

136 (II) If the commission finds a lack of such intent, it may
137 enter an order prohibiting recovery of any future costs relating
138 to the plant under this section.

139 b. Twenty years after the date on which the utility obtains
140 a combined license from the Nuclear Regulatory Commission for a
141 nuclear power plant or a certification for an integrated
142 gasification combined cycle power plant, the utility may not,
143 under this section, recover future costs relating to that plant.

144 2. Consistent with subsection (4), nothing in this section
145 shall preclude a utility from recovering the full revenue

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146 requirements of the nuclear power plant or integrated
147 gasification combined cycle power plant in base rates upon the
148 commercial in-service date.

149 3. Beginning January 1, 2014, in making its determination
150 for any cost recovery under this paragraph, the commission may
151 find that a utility intends to construct a nuclear or integrated
152 gasification combined cycle power plant only if the utility
153 proves by a preponderance of the evidence that it has committed
154 sufficient, meaningful, and available resources to enable the
155 project to be completed and that its intent is realistic and
156 practical.

157 (6) If the utility does ~~elects~~ not ~~to~~ complete ~~or is~~
158 ~~precluded from completing~~ construction of the nuclear power
159 plant, including new, expanded, or relocated electrical
160 transmission lines or facilities necessary thereto, or of the
161 integrated gasification combined cycle power plant, the utility
162 shall be allowed to recover all prudent preconstruction and
163 construction costs incurred following the commission's issuance
164 of a final order granting a determination of need for the
165 nuclear power plant and electrical transmission lines and
166 facilities necessary thereto or for the integrated gasification
167 combined cycle power plant. The utility shall recover such costs
168 through the capacity cost recovery clause over a period equal to
169 the period during which the costs were incurred or 5 years,
170 whichever is greater. The unrecovered balance during the
171 recovery period will accrue interest at the utility's weighted
172 average cost of capital as reported in the commission's earnings
173 surveillance reporting requirement for the prior year. However,
174 if the utility elects not to complete construction of the

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175 nuclear power plant, rather than being precluded from completing
176 such construction, the utility may not recover or retain any
177 rate of return under this section. Any cost recovery after the
178 date of the decision not to complete construction of the plant
179 may not include a rate of return. A utility that elects not to
180 complete construction shall refund to its customers the costs
181 recovered before the date of the decision which are attributable
182 to a recovery of a rate of return.

183 Section 2. This act does not apply to costs incurred, or
184 contracts or settlement agreements entered into, before July 1,
185 2013. It also does not apply if, on or before that date, the
186 Public Service Commission receives written notice that a utility
187 has elected not to complete construction of a power plant.

188 Section 3. This act shall take effect July 1, 2013.