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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 any future rate of  
16          return for related costs; requiring a utility to  
17          provide notice of its election to the commission;  
18          providing for a penalty; exempting certain actions  
19          taken before this act takes effect; providing an  
20          effective date.

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

23  
24           Section 1. Subsections (1), (2), (3), and (6) of section  
25   366.93, Florida Statutes, are amended to read:

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

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

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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 which ~~that~~ are necessary thereto, or of  
37 the integrated gasification combined cycle power plant.

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

40 (c) "Integrated gasification combined cycle power plant" or  
41 "plant" means an electrical power plant as defined in s.  
42 403.503(14) which ~~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) which ~~that~~ uses nuclear  
46 materials for fuel.

47 (e) "Power plant" or "plant" means a nuclear power plant or  
48 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 must  
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,

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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 must ~~shall~~ be designed to promote utility investment  
64 in nuclear or integrated gasification combined cycle power  
65 plants and allow for the recovery in rates of all prudently  
66 incurred costs, including ~~and shall include~~, but not be limited  
67 to:

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

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

86 (3) (a) After a petition for determination of need is  
87 granted, a utility may petition the commission for cost recovery

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88 as permitted by this section and commission rules.

89 (b) During the time that a utility seeks to obtain a  
90 combined license from the Nuclear Regulatory Commission for a  
91 nuclear power plant or a certification for an integrated  
92 gasification combined cycle power plant, the utility may recover  
93 only costs related to, or necessary for, obtaining such  
94 licensing or certification.

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

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

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

105 a. The plant remains feasible; and

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

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

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

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117 1. The only costs that a utility that has obtained  
118 commission approval may recover before beginning construction  
119 work are those that are previously approved or necessary to  
120 maintain the license or certification.

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

123 a. The plant remains feasible; and

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

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

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

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

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

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

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146 2. Consistent with subsection (4), nothing in this section  
147 shall preclude a utility from recovering the full revenue  
148 requirements of the nuclear power plant or integrated  
149 gasification combined cycle power plant in base rates upon the  
150 commercial in-service date.

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

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

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175 surveillance reporting requirement for the prior year. However,  
176 if the utility elects not to complete construction of the  
177 nuclear power plant, rather than being precluded from completing  
178 such construction, the utility may not recover any further rate  
179 of return under this section. The utility must provide written  
180 notice of this election to the commission within 14 days after  
181 making the election. Failure by the utility to timely notify the  
182 commission is a violation of this section and punishable under  
183 s. 350.127. Any cost recovery after the date of the election not  
184 to complete construction of the plant may not include a rate of  
185 return.

186 Section 2. This act does not apply to costs incurred, or  
187 contracts or settlement agreements entered into, before July 1,  
188 2013. It also does not apply if, on or before that date, the  
189 Public Service Commission receives written notice that a utility  
190 has elected not to complete construction of a power plant.

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