

By the Committees on Communications, Energy, and Public Utilities; and Communications, Energy, and Public Utilities; and Senator Latvala

579-03653-15

2015288c2

1 A bill to be entitled
2 An act relating to utilities regulation; amending s.
3 350.01, F.S.; providing term limits for commissioners
4 appointed after a specified date; requiring the
5 Florida Public Service Commission to hold public
6 customer service meetings in certain service
7 territories; requiring that specified meetings,
8 workshops, hearings, or proceedings of the commission
9 be streamed live and recorded copies be made available
10 on the commission's web page; amending s. 350.031,
11 F.S.; requiring a person who lobbies a member of the
12 Florida Public Service Commission Nominating Council
13 to register as a lobbyist; reenacting and amending s.
14 350.041, F.S.; requiring public service commissioners
15 to annually complete ethics training; providing
16 applicability; amending s. 350.042, F.S.; revising the
17 prohibition against ex parte communication to apply to
18 any matter that a commissioner knows or reasonably
19 expects will be filed within a certain timeframe;
20 providing legislative intent; defining terms; applying
21 the prohibition against ex parte communications to
22 specified meetings; requiring the Governor to remove
23 from office any commissioner found to have willfully
24 and knowingly violated the ex parte communications
25 statute; amending s. 350.0611, F.S.; authorizing the
26 Public Counsel to be a party to settlement agreements
27 in any proceeding before the commission in which he or
28 she has participated as a party; prohibiting a
29 settlement agreement to which the Public Counsel is

579-03653-15

2015288c2

30 not a party from being submitted to or approved by the
31 Florida Public Service Commission; amending s. 366.05,
32 F.S.; limiting the use of tiered rates in conjunction
33 with extended billing periods; limiting deposit
34 amounts; requiring a utility to notify each customer
35 if it has more than one rate for any customer class;
36 requiring the utility to provide good faith assistance
37 to the customer in determining the best rate;
38 assigning responsibility to the customer for the rate
39 selection; requiring that the commission approve new
40 tariffs and certain changes to existing tariffs;
41 amending s. 366.82, F.S.; requiring that money
42 received by a utility for the development of demand-
43 side renewable energy systems be used solely for that
44 purpose; creating s. 366.95, F.S.; defining terms;
45 authorizing electric utilities to petition the Florida
46 Public Service Commission for certain financing orders
47 that authorize the issuance of nuclear asset-recovery
48 bonds, the imposition, collection, and periodic
49 adjustments of nuclear asset-recovery charges, and the
50 creation of nuclear asset-recovery property; providing
51 requirements; providing exceptions to the commission's
52 jurisdictions as it relates to financing orders;
53 specifying duties of electric utilities that have
54 obtained a financing order and issued nuclear asset-
55 recovery bonds; specifying properties, requirements
56 and limitations relating to nuclear asset-recovery
57 property; providing requirements as to the sufficiency
58 of the description of certain nuclear asset-recovery

579-03653-15

2015288c2

59 property; subjecting financing statements to the
60 Uniform Commercial Code; providing an exception;
61 specifying that nuclear asset-recovery bonds are not
62 public debt; specifying certain state pledges relating
63 to bondholders; declaring certain entities as not
64 electric utilities under certain circumstances;
65 specifying effect of certain provisions in situations
66 of conflict; providing for protecting validity of
67 certain bonds under certain circumstances; providing
68 penalties; reenacting ss. 403.537 and 403.9422, F.S.,
69 relating to determination of need for electric and
70 natural gas transmission lines, respectively;
71 reenacting s. 350.043, F.S., relating to the
72 enforcement and interpretation of laws relating to the
73 commission; providing an effective date.

74

75 Be It Enacted by the Legislature of the State of Florida:

76

77 Section 1. Subsection (3) of section 350.01, Florida
78 Statutes, is amended, and subsections (8), (9), and (10) are
79 added to that section, to read:

80 350.01 Florida Public Service Commission; terms of
81 commissioners; vacancies; election and duties of chair; quorum;
82 proceedings.—

83 (3) Any person serving on the commission who seeks to be
84 appointed or reappointed shall file with the nominating council
85 no later than June 1 prior to the year in which his or her term
86 expires a statement that he or she desires to serve an
87 additional term. A commissioner appointed after July 1, 2015,

579-03653-15

2015288c2

88 may not serve more than three consecutive terms.

89 (8) At least annually, the commission shall hold a customer
90 service meeting, open to the public, in the service territory of
91 each public utility regulated by the commission which supplies
92 electricity.

93 (9) The commission shall hold a customer service meeting,
94 open to the public, in the service territory of each water or
95 wastewater utility that is subject to regulation under chapter
96 367, upon receipt of a written request signed by at least 10
97 percent of the customers of that utility. Such meeting shall be
98 scheduled within a reasonable time after receipt of the request.

99 (10) Each meeting, including an internal affairs meeting,
100 workshop, hearing, or proceeding that is attended by two or more
101 commissioners and each meeting, workshop, hearing, or proceeding
102 at which a decision is made which concerns the rights or
103 obligations of any person, shall be streamed live on the
104 Internet, and a recorded copy of such meeting, workshop,
105 hearing, or proceeding must be made available on the
106 commission's web page.

107 Section 2. Subsection (10) is added to section 350.031,
108 Florida Statutes, to read:

109 350.031 Florida Public Service Commission Nominating
110 Council.—

111 (10) In keeping with the purpose of the council, which is
112 to select nominees to be appointed to an arm of the legislative
113 branch of government, a person who lobbies a member of the
114 council, legislator or nonlegislator, must register as a
115 lobbyist pursuant to s. 11.045 and comply with the requirements
116 of that section.

579-03653-15

2015288c2

117 Section 3. Present subsection (3) of section 350.041,
118 Florida Statutes, is reenacted and amended, and a new subsection
119 (3) is added to that section, to read:

120 350.041 Commissioners; standards of conduct.—

121 (3) ETHICS TRAINING.—Beginning January 1, 2016, a
122 commissioner must annually complete 4 hours of ethics training
123 that addresses, at a minimum, s. 8, Art. II of the State
124 Constitution, the Code of Ethics for Public Officers and
125 Employees, and the public records and public meetings laws of
126 this state. This requirement may be satisfied by completion of a
127 continuing legal education class or other continuing
128 professional education class, seminar, or presentation, if the
129 required subjects are covered.

130 (4) COMMISSION ON ETHICS.—The Commission on Ethics shall
131 accept and investigate any alleged violations of this section
132 pursuant to the procedures contained in ss. 112.322-112.3241.
133 The Commission on Ethics shall provide the Governor and the
134 Florida Public Service Commission Nominating Council with a
135 report of its findings and recommendations. The Governor is
136 authorized to enforce the findings and recommendations of the
137 Commission on Ethics, pursuant to part III of chapter 112. A
138 public service commissioner or a member of the Florida Public
139 Service Commission Nominating Council may request an advisory
140 opinion from the Commission on Ethics, pursuant to s.
141 112.322(3)(a), regarding the standards of conduct or
142 prohibitions set forth in this section and ss. 350.031, 350.04,
143 and 350.042.

144 Section 4. Subsections (1) and (3) and paragraph (b) of
145 subsection (7) of section 350.042, Florida Statutes, are amended

579-03653-15

2015288c2

146 to read:

147 350.042 Ex parte communications.—

148 (1) A commissioner should accord to every person who is
149 legally interested in a proceeding, or the person's lawyer, full
150 right to be heard according to law, and, except as authorized by
151 law, shall neither initiate nor consider ex parte communications
152 concerning the merits, threat, or offer of reward in any
153 proceeding under s. 120.569 or s. 120.57 which is currently
154 pending before the commission or which he or she knows or
155 reasonably expects will be filed with the commission within 180
156 days after the date of any such communication, other than a
157 proceeding under s. 120.54 or s. 120.565, workshops, or internal
158 affairs meetings. An ~~No~~ individual may not ~~shall~~ discuss ex
159 parte with a commissioner the merits of any issue that he or she
160 knows will be filed with the commission within 180 ~~90~~ days. ~~The~~
161 ~~provisions of~~ This subsection does ~~shall~~ not apply to commission
162 staff.

163 (3) (a) The Legislature finds that it is important to have
164 commissioners who are educated and informed on regulatory
165 policies and developments in science, technology, business
166 management, finance, law, and public policy which are associated
167 with the industries that the commissioners regulate, and the
168 Legislature also finds that it is in the public interest for
169 commissioners to become educated and informed on these matters
170 through active participation in meetings that are scheduled by
171 the sponsoring organization, such as sessions, programs, or
172 conferences, which are duly noticed and open to the public.

173 (b) As used in this subsection, the term "active
174 participation" or the term "participating in" includes, but is

579-03653-15

2015288c2

175 not limited to, attending or speaking at educational sessions,
176 participating in organization governance by attending meetings,
177 -serving on committees, or in leadership positions, participating
178 in panel discussions, and attending meals and receptions
179 associated with such events that are open to all attendees.

180 (c) The prohibition in subsection (1) remains in effect at
181 all times at such meetings wherever located. While participating
182 in such meetings, a commissioner shall:

183 1. Refrain from commenting on or discussing the subject
184 matter of any proceeding under s. 120.569 or s. 120.57 which is
185 currently pending before the commission or which he or she knows
186 or reasonably expects will be filed with the commission within
187 180 days after the meeting; and

188 2. Use reasonable care to ensure that the content of the
189 educational session or other session in which the commissioner
190 participates is not designed to address or create a forum to
191 influence the commissioner on the subject matter of any
192 proceeding under s. 120.569 or s. 120.57 which is currently
193 pending before the commission or which he or she knows or
194 reasonably expects will be filed with the commission within 180
195 days after the meeting ~~This section shall not apply to oral~~
196 ~~communications or discussions in scheduled and noticed open~~
197 ~~public meetings of educational programs or of a conference or~~
198 ~~other meeting of an association of regulatory agencies.~~

199 (7)

200 (b) If the Commission on Ethics finds that there has been a
201 violation of this section by a public service commissioner, it
202 shall provide the Governor and the Florida Public Service
203 Commission Nominating Council with a report of its findings and

579-03653-15

2015288c2

204 recommendations. The Governor shall remove from office a
205 commissioner who willfully and knowingly violates this section
206 and is authorized to enforce the findings and recommendations of
207 the Commission on Ethics, pursuant to part III of chapter 112.

208 Section 5. Section 350.0611, Florida Statutes, is amended
209 to read:

210 350.0611 Public Counsel; duties and powers.—It shall be the
211 duty of the Public Counsel to provide legal representation for
212 the people of the state in proceedings before the commission and
213 in proceedings before counties pursuant to s. 367.171(8). The
214 Public Counsel shall have such powers as are necessary to carry
215 out the duties of his or her office, including, but not limited
216 to, the following specific powers:

217 (1) To recommend to the commission or the counties, by
218 petition, the commencement of any proceeding or action or to
219 appear, in the name of the state or its citizens, in any
220 proceeding or action before the commission or the counties and
221 urge therein any position which he or she deems to be in the
222 public interest, whether consistent or inconsistent with
223 positions previously adopted by the commission or the counties,
224 and utilize therein all forms of discovery available to
225 attorneys in civil actions generally, subject to protective
226 orders of the commission or the counties which shall be
227 reviewable by summary procedure in the circuit courts of this
228 state;

229 (2) To have access to and use of all files, records, and
230 data of the commission or the counties available to any other
231 attorney representing parties in a proceeding before the
232 commission or the counties;

579-03653-15

2015288c2

233 (3) In any proceeding before the commission in which he or
234 she has participated as a party, to be a party to a settlement
235 agreement. If he or she is not a party to the settlement
236 agreement, it may not be submitted to or approved by the
237 commission;

238 ~~(4)~~~~(3)~~ In any proceeding in which he or she has
239 participated as a party, to seek review of any determination,
240 finding, or order of the commission or the counties, or of any
241 hearing examiner designated by the commission or the counties,
242 in the name of the state or its citizens;

243 ~~(5)~~~~(4)~~ To prepare and issue reports, recommendations, and
244 proposed orders to the commission, the Governor, and the
245 Legislature on any matter or subject within the jurisdiction of
246 the commission, and to make such recommendations as he or she
247 deems appropriate for legislation relative to commission
248 procedures, rules, jurisdiction, personnel, and functions; and

249 ~~(6)~~~~(5)~~ To appear before other state agencies, federal
250 agencies, and state and federal courts in connection with
251 matters under the jurisdiction of the commission, in the name of
252 the state or its citizens.

253 Section 6. Subsection (1) of section 366.05, Florida
254 Statutes, is amended to read:

255 366.05 Powers.—

256 (1) (a) In the exercise of such jurisdiction, the commission
257 shall have power to prescribe fair and reasonable rates and
258 charges, classifications, standards of quality and measurements,
259 including the ability to adopt construction standards that
260 exceed the National Electrical Safety Code, for purposes of
261 ensuring the reliable provision of service, and service rules

579-03653-15

2015288c2

262 and regulations to be observed by each public utility; to
263 require repairs, improvements, additions, replacements, and
264 extensions to the plant and equipment of any public utility when
265 reasonably necessary to promote the convenience and welfare of
266 the public and secure adequate service or facilities for those
267 reasonably entitled thereto; to employ and fix the compensation
268 for such examiners and technical, legal, and clerical employees
269 as it deems necessary to carry out the provisions of this
270 chapter; and to adopt rules pursuant to ss. 120.536(1) and
271 120.54 to implement and enforce the provisions of this chapter.

272 (b) If the commission authorizes a public utility to charge
273 tiered rates based upon levels of usage and to vary the billing
274 period, the utility may not charge a customer a higher rate
275 because of an increase in usage attributable to an extension of
276 the billing period.

277 (c) Notwithstanding any commission rule to the contrary, a
278 utility may not charge or receive a deposit in excess of the
279 amounts specified in subparagraphs 1. and 2.

280 1. For an existing customer, the total deposit cannot
281 exceed the total charges for 2 months of average actual usage,
282 calculated by adding the monthly charges from the 12-month
283 period immediately before the date any change in the deposit
284 amount is sought, dividing this total by 12, and multiplying the
285 result by 2.

286 2. For a new customer, the amount may not exceed 2 months
287 of projected charges, calculated using the process specified in
288 subparagraph 1. Once a new customer has had continuous service
289 for a 12-month period, the amount of the deposit shall be
290 recalculated, using actual usage data. Any difference between

579-03653-15

2015288c2

291 the projected and actual amounts must be resolved by the
292 customer paying any additional amount due or the utility
293 returning any overcharge.

294 (d) If a utility has more than one rate for any customer
295 class, it must notify each customer in that class of the
296 available rates and explain how the rate is charged to the
297 customer. If a customer contacts the utility seeking assistance
298 in selecting the most advantageous rate, the utility must
299 provide good faith assistance to the customer. The customer is
300 responsible for charges for service calculated under the
301 selected rate.

302 (e) New tariffs and changes to an existing tariff, other
303 than an administrative change that does not substantially change
304 the meaning or operation of the tariff, must be approved by vote
305 of the commission.

306 Section 7. Subsection (2) of section 366.82, Florida
307 Statutes, is amended to read:

308 366.82 Definition; goals; plans; programs; annual reports;
309 energy audits.—

310 (2) The commission shall adopt appropriate goals for
311 increasing the efficiency of energy consumption and increasing
312 the development of demand-side renewable energy systems,
313 specifically including goals designed to increase the
314 conservation of expensive resources, such as petroleum fuels, to
315 reduce and control the growth rates of electric consumption, to
316 reduce the growth rates of weather-sensitive peak demand, and to
317 encourage development of demand-side renewable energy resources.
318 The commission may allow efficiency investments across
319 generation, transmission, and distribution as well as

579-03653-15

2015288c2

320 efficiencies within the user base. Money received by a utility
321 for implementation of measures to encourage development of
322 demand-side renewable energy systems shall be used solely for
323 such purpose.

324 Section 8. Section 366.95, Florida Statutes, is created to
325 read:

326 366.95 Financing for certain nuclear generating asset
327 retirement or abandonment costs.-

328 (1) DEFINITIONS.-As used in this section, the term:

329 (a) "Ancillary agreement" means any bond, insurance policy,
330 letter of credit, reserve account, surety bond, interest rate
331 lock or swap arrangement, hedging arrangement, liquidity or
332 credit support arrangement, or other financial arrangement
333 entered into in connection with nuclear asset-recovery bonds.

334 (b) "Assignee" means any entity, including, but not limited
335 to, a corporation, limited liability company, partnership or
336 limited partnership, public authority, trust, financing entity,
337 or other legally recognized entity to which an electric utility
338 assigns, sells, or transfers, other than as security, all or a
339 portion of its interest in or right to nuclear asset-recovery
340 property. The term also includes any entity to which an assignee
341 assigns, sells, or transfers, other than as security, its
342 interest in or right to nuclear asset-recovery property.

343 (c) "Commission" means the Florida Public Service
344 Commission.

345 (d) "Electric utility" or "utility" has the same meaning as
346 in s. 366.8255.

347 (e) "Financing costs" means:

348 1. Interest and acquisition, defeasance, or redemption

579-03653-15

2015288c2

349 premiums that are payable on nuclear asset-recovery bonds;

350 2. Any payment required under an ancillary agreement and
351 any amount required to fund or replenish a reserve account or
352 other accounts established under the terms of any indenture,
353 ancillary agreement, or other financing documents pertaining to
354 nuclear asset-recovery bonds;

355 3. Any other cost related to issuing, supporting, repaying,
356 refunding, and servicing nuclear asset-recovery bonds,
357 including, but not limited to, servicing fees, accounting and
358 auditing fees, trustee fees, legal fees, consulting fees,
359 financial advisor fees, administrative fees, placement and
360 underwriting fees, capitalized interest, rating agency fees,
361 stock exchange listing and compliance fees, security
362 registration fees, filing fees, information technology
363 programming costs, and any other costs necessary to otherwise
364 ensure the timely payment of nuclear asset-recovery bonds or
365 other amounts or charges payable in connection with the bonds,
366 including costs related to obtaining the financing order;

367 4. Any taxes and license fees imposed on the revenues
368 generated from the collection of the nuclear asset-recovery
369 charge;

370 5. Any state and local taxes, franchise, gross receipts,
371 and other taxes or similar charges, including, but not limited
372 to, regulatory assessment fees, in any such case whether paid,
373 payable, or accrued; and

374 6. Any costs that are incurred by the commission for any
375 outside consultants or counsel pursuant to subparagraph (2)(c)2.

376 (f) "Financing order" means an order that authorizes the
377 issuance of nuclear asset-recovery bonds; the imposition,

579-03653-15

2015288c2

378 collection, and periodic adjustments of the nuclear asset-
379 recovery charge; and the creation of nuclear asset-recovery
380 property.

381 (g) "Financing party" means any and all of the following:
382 holders of nuclear asset-recovery bonds and trustees, collateral
383 agents, any party under an ancillary agreement, or any other
384 person acting for the benefit of holders of nuclear asset-
385 recovery bonds.

386 (h) "Financing statement" has the same meaning as in Art. 9
387 of the Uniform Commercial Code.

388 (i) "Nuclear asset-recovery bonds" means bonds, debentures,
389 notes, certificates of participation, certificates of beneficial
390 interest, certificates of ownership, or other evidences of
391 indebtedness or ownership that are issued by an electric utility
392 or an assignee pursuant to a financing order, the proceeds of
393 which are used directly or indirectly to recover, finance, or
394 refinance commission-approved nuclear asset-recovery costs and
395 financing costs, and that are secured by or payable from nuclear
396 asset-recovery property. If certificates of participation or
397 ownership are issued, references in this section to principal,
398 interest, or premium shall be construed to refer to comparable
399 amounts under those certificates.

400 (j) "Nuclear asset-recovery charge" means the amounts
401 authorized by the commission to repay, finance, or refinance
402 nuclear asset-recovery costs and financing costs. If determined
403 appropriate by the commission and provided for in a financing
404 order, such amounts are to be imposed on and be a part of all
405 customer bills and be collected by an electric utility or its
406 successors or assignees, or a collection agent, in full through

579-03653-15

2015288c2

407 a nonbypassable charge that is separate and apart from the
408 electric utility's base rates, which charge shall be paid by all
409 existing or future customers receiving transmission or
410 distribution service from the electric utility or its successors
411 or assignees under commission-approved rate schedules or under
412 special contracts, even if a customer elects to purchase
413 electricity from an alternative electricity supplier following a
414 fundamental change in regulation of public utilities in this
415 state.

416 (k) "Nuclear asset-recovery costs" means:

417 1. At the option of and upon petition by the electric
418 utility, and as approved by the commission pursuant to sub-
419 subparagraph (2)(c)1.b., pretax costs that an electric utility
420 has incurred or expects to incur which are caused by, associated
421 with, or remain as a result of the early retirement or
422 abandonment of a nuclear generating asset unit that generated
423 electricity and is located in this state where such early
424 retirement or abandonment is deemed to be reasonable and prudent
425 by the commission through a final order approving a settlement
426 or other final order issued by the commission before July 1,
427 2017, and where the pretax costs to be securitized exceed \$750
428 million at the time of the filing of the petition. Costs
429 eligible or claimed for recovery pursuant to s. 366.93 are not
430 eligible for securitization under this section unless they were
431 in the electric utility's rate base and were included in base
432 rates before retirement or abandonment.

433 2. Such pretax costs, where determined appropriate by the
434 commission, include, but are not limited to, the capitalized
435 cost of the retired or abandoned nuclear generating asset unit,

579-03653-15

2015288c2

436 other applicable capital and operating costs, accrued carrying
437 charges, deferred expenses, reductions for applicable insurance
438 and salvage proceeds and previously stipulated write-downs or
439 write-offs, if any, and the costs of retiring any existing
440 indebtedness, fees, costs, and expenses to modify existing debt
441 agreements or for waivers or consents related to existing debt
442 agreements.

443 (1) "Nuclear asset-recovery property" means:

444 1. All rights and interests of an electric utility or
445 successor or assignee of the electric utility under a financing
446 order, including the right to impose, bill, collect, and receive
447 nuclear asset-recovery charges authorized under the financing
448 order and to obtain periodic adjustments to such charges as
449 provided in the financing order; or

450 2. All revenues, collections, claims, rights to payments,
451 payments, money, or proceeds arising from the rights and
452 interests specified in subparagraph 1., regardless of whether
453 such revenues, collections, claims, rights to payment, payments,
454 money, or proceeds are imposed, billed, received, collected, or
455 maintained together with or commingled with other revenues,
456 collections, rights to payment, payments, money, or proceeds.

457 (m) "Pledgee" means a financing party to which an electric
458 utility or its successors or assignees mortgages, negotiates,
459 hypothecates, pledges, or creates a security interest or lien on
460 all or any portion of its interest in or right to nuclear asset-
461 recovery property.

462 (n) "Uniform Commercial Code" has the same meaning as in
463 chapters 670-680.

464 (2) FINANCING ORDERS.-

579-03653-15

2015288c2

465 (a) An electric utility may petition the commission for a
466 financing order. For each petition, the electric utility shall:
467 1. Describe the nuclear asset-recovery costs;
468 2. Indicate whether the utility proposes to finance all or
469 a portion of the nuclear asset-recovery costs using nuclear
470 asset-recovery bonds. If the utility proposes to finance a
471 portion of such costs, the utility must identify which specific
472 portion in the petition;
473 3. Estimate the financing costs related to the nuclear
474 asset-recovery bonds;
475 4. Estimate the nuclear asset-recovery charges necessary to
476 recover the nuclear asset-recovery costs and financing costs and
477 the period for recovery of such costs;
478 5. Estimate any projected cost savings, based on current
479 market conditions, or demonstrate how the issuance of nuclear
480 asset-recovery bonds and the imposition of nuclear asset-
481 recovery charges would avoid or significantly mitigate rate
482 impacts to customers as compared with the traditional method of
483 financing and recovering nuclear asset-recovery costs from
484 customers;
485 6. Demonstrate that securitization has a significant
486 likelihood of resulting in lower overall costs or would avoid or
487 significantly mitigate rate impacts compared to traditional
488 method of cost recovery; and
489 7. File direct testimony supporting the petition.
490 (b) If an electric utility is subject to a settlement
491 agreement that governs the type and amount of principal costs
492 that could be included in nuclear asset-recovery costs, the
493 electric utility must file a petition, or have filed a petition,

579-03653-15

2015288c2

494 with the commission for review and approval of those principal
495 costs no later than 60 days before filing a petition for a
496 financing order pursuant to this section. The commission may not
497 authorize any such principal costs to be included or excluded,
498 as applicable, as nuclear asset-recovery costs if such inclusion
499 or exclusion, as applicable, of those costs would otherwise be
500 precluded by such electric utility's settlement agreement.

501 (c)1. Proceedings on a petition submitted pursuant to
502 paragraph (a) begin with the petition by an electric utility,
503 filed subject to the timeframe specified in paragraph (b), if
504 applicable, and shall be disposed of in accordance with chapter
505 120 and applicable rules, except that this section, to the
506 extent applicable, controls.

507 a. Within 7 days after the filing of a petition, the
508 commission shall publish a case schedule, which must place the
509 matter before the commission on an agenda that permits a
510 commission decision no later than 120 days after the date the
511 petition is filed.

512 b. No later than 135 days after the date the petition is
513 filed, the commission shall issue a financing order or an order
514 rejecting the petition. A party to the commission proceeding may
515 petition the commission for reconsideration of the financing
516 order within 5 days after the date of its issuance. The
517 commission shall issue a financing order authorizing financing
518 of reasonable and prudent nuclear asset-recovery costs and
519 financing costs if the commission finds that the issuance of the
520 nuclear asset-recovery bonds and the imposition of nuclear
521 asset-recovery charges authorized by the financing order have a
522 significant likelihood of resulting in lower overall costs or

579-03653-15

2015288c2

523 would avoid or significantly mitigate rate impacts to customers
524 as compared with the traditional method of financing and
525 recovering nuclear asset-recovery costs. Any determination of
526 whether nuclear asset-recovery costs are reasonable and prudent
527 shall be made with reference to the general public interest and
528 in accordance with paragraph (b), if applicable.

529 2. In a financing order issued to an electric utility, the
530 commission shall:

531 a. Except as provided in sub-subparagraph d. and in
532 subparagraph 4., specify the amount of nuclear asset-recovery
533 costs to be financed using nuclear asset-recovery bonds, taking
534 into consideration, to the extent the commission deems
535 appropriate, any other methods used to recover these costs. The
536 commission shall describe and estimate the amount of financing
537 costs which may be recovered through nuclear asset-recovery
538 charges and specify the period over which such costs may be
539 recovered. Any such determination as to the overall time period
540 for cost recovery must be consistent with a settlement
541 agreement, if any, as referenced in paragraph (b);

542 b. Determine if the proposed structuring, expected pricing,
543 and financing costs of the nuclear asset-recovery bonds have a
544 significant likelihood of resulting in lower overall costs or
545 would avoid or significantly mitigate rate impacts to customers
546 as compared with the traditional method of financing and
547 recovering nuclear asset-recovery costs. A financing order must
548 provide detailed findings of fact addressing cost-effectiveness
549 and associated rate impacts upon retail customers and retail
550 customer classes;

551 c. Require, for the period specified pursuant to sub-

579-03653-15

2015288c2

552 subparagraph a., that the imposition and collection of nuclear
553 asset-recovery charges authorized under a financing order be
554 nonbypassable and paid by all existing and future customers
555 receiving transmission or distribution service from the electric
556 utility or its successors or assignees under commission-approved
557 rate schedules or under special contracts, even if a customer
558 elects to purchase electricity from an alternative electric
559 supplier following a fundamental change in regulation of public
560 utilities in this state;

561 d. Include a formula-based true-up mechanism for making
562 expeditious periodic adjustments in the nuclear asset-recovery
563 charges that customers are required to pay pursuant to the
564 financing order and for making any adjustments that are
565 necessary to correct for any overcollection or undercollection
566 of the charges or to otherwise ensure the timely payment of
567 nuclear asset-recovery bonds and financing costs and other
568 required amounts and charges payable in connection with the
569 nuclear asset-recovery bonds;

570 e. Specify the nuclear asset-recovery property that is, or
571 shall be, created in favor of an electric utility or its
572 successors or assignees and that shall be used to pay or secure
573 nuclear asset-recovery bonds and all financing costs;

574 f. Specify the degree of flexibility to be afforded to the
575 electric utility in establishing the terms and conditions of the
576 nuclear asset-recovery bonds, including, but not limited to,
577 repayment schedules, expected interest rates, and other
578 financing costs consistent with sub-subparagraphs a.-e.;

579 g. Require nuclear asset-recovery charges to be allocated
580 to the customer classes using the criteria set out in s.

579-03653-15

2015288c2

581 366.06(1), in the manner in which these costs or their
582 equivalent was allocated in the cost-of-service study that was
583 approved in connection with the electric utility's last rate
584 case and that is in effect during the nuclear asset-recovery
585 charge annual billing period. If the electric utility's last
586 rate case was resolved by a settlement agreement, the cost-of-
587 service methodology that was adopted in the settlement agreement
588 in that case and that is in effect during the nuclear asset-
589 recovery charge annual billing period shall be used;

590 h. Require, after the final terms of an issuance of nuclear
591 asset-recovery bonds have been established and before the
592 issuance of nuclear asset-recovery bonds, that the electric
593 utility determine the resulting initial nuclear asset-recovery
594 charge in accordance with the financing order and that such
595 initial nuclear asset-recovery charge be final and effective
596 upon the issuance of such nuclear asset-recovery bonds without
597 further commission action so long as the nuclear asset-recovery
598 charge is consistent with the financing order; and

599 i. Include any other conditions that the commission
600 considers appropriate and that are authorized by this section.

601
602 In performing the responsibilities of this subparagraph and
603 subparagraph 5., the commission may engage outside consultants
604 or counsel. All expenses associated with such services shall be
605 included as part of financing costs and included in the nuclear
606 asset-recovery charge.

607 3. A financing order issued to an electric utility may
608 provide that creation of the electric utility's nuclear asset-
609 recovery property pursuant to sub-subparagraph 2.e. is

579-03653-15

2015288c2

610 conditioned upon, and simultaneous with, the sale or other
611 transfer of the nuclear asset-recovery property to an assignee
612 and the pledge of the nuclear asset-recovery property to secure
613 nuclear asset-recovery bonds.

614 4. If the commission issues a financing order and nuclear
615 asset-recovery bonds are issued, the electric utility or
616 assignee must file with the commission at least biannually a
617 petition or a letter applying the formula-based true-up
618 mechanism pursuant to sub-subparagraph 2.d. and, based on
619 estimates of consumption for each rate class and other
620 mathematical factors, requesting administrative approval to make
621 the adjustments described in sub-subparagraph 2.d. The review of
622 such a request is limited to determining whether there is any
623 mathematical error in the application of the formula-based
624 mechanism relating to the amount of any overcollection or
625 undercollection of nuclear asset-recovery charges and the amount
626 of any adjustment. Such adjustments shall ensure the recovery of
627 revenues sufficient to provide for the timely payment of
628 principal, interest, acquisition, defeasance, financing costs,
629 or redemption premium and other fees, costs, and charges
630 relating to nuclear asset-recovery bonds approved under the
631 financing order. Within 60 days after receiving an electric
632 utility's request pursuant to this paragraph, the commission
633 must approve the request or inform the electric utility of any
634 mathematical errors in its calculation. If the commission
635 informs the utility of mathematical errors in its calculation,
636 the utility may correct its error and refile its request. The
637 timeframes previously described in this paragraph apply to a
638 refiled request.

579-03653-15

2015288c2

639 5. Within 120 days after the issuance of nuclear asset-
640 recovery bonds, the electric utility shall file with the
641 commission information on the actual costs of the nuclear asset-
642 recovery bonds issuance. The commission shall review, on a
643 reasonably comparable basis, such information to determine if
644 such costs incurred in the issuance of the bonds resulted in the
645 lowest overall costs that were reasonably consistent with market
646 conditions at the time of the issuance and the terms of the
647 financing order. The commission may disallow all incremental
648 issuance costs in excess of the lowest overall costs by
649 requiring the electric utility to make a credit to the capacity
650 cost recovery clause in an amount equal to the excess of actual
651 issuance costs incurred, and paid for out of nuclear asset-
652 recovery bonds proceeds, and the lowest overall issuance costs
653 as determined by the commission. The commission may not make
654 adjustments to the nuclear asset-recovery charges for any such
655 excess issuance costs.

656 6. Subsequent to the transfer of nuclear asset-recovery
657 property to an assignee or the issuance of nuclear asset-
658 recovery bonds authorized thereby, whichever is earlier, a
659 financing order is irrevocable and, except as provided in
660 subparagraph 4. and paragraph (d), the commission may not amend,
661 modify, or terminate the financing order by any subsequent
662 action or reduce, impair, postpone, terminate, or otherwise
663 adjust nuclear asset-recovery charges approved in the financing
664 order. After the issuance of a financing order, the electric
665 utility retains sole discretion regarding whether to assign,
666 sell, or otherwise transfer nuclear asset-recovery property or
667 to cause nuclear asset-recovery bonds to be issued, including

579-03653-15

2015288c2

668 the right to defer or postpone such assignment, sale, transfer,
669 or issuance. If the electric utility decides not to cause
670 nuclear asset-recovery bonds to be issued, the electric utility
671 may not recover financing costs as defined in paragraph (1) (e)
672 from customers.

673 (d) At the request of an electric utility, the commission
674 may commence a proceeding and issue a subsequent financing order
675 that provides for refinancing, retiring, or refunding nuclear
676 asset-recovery bonds issued pursuant to the original financing
677 order if the commission finds that the subsequent financing
678 order satisfies all of the criteria specified in paragraph (c).
679 Effective upon retirement of the refunded nuclear asset-recovery
680 bonds and the issuance of new nuclear asset-recovery bonds, the
681 commission shall adjust the related nuclear asset-recovery
682 charges accordingly.

683 (e) Within 30 days after the commission issues a financing
684 order or a decision denying a request for reconsideration or, if
685 the request for reconsideration is granted, within 30 days after
686 the commission issues its decision on reconsideration, an
687 adversely affected party may petition for judicial review in the
688 Florida Supreme Court. The petition for review must be served
689 upon the executive director of the commission personally or by
690 service at the office of the commission. Review on appeal shall
691 be based solely on the record before the commission and briefs
692 to the court and is limited to determining whether the financing
693 order, or the order on reconsideration, conforms to the state
694 constitution and laws of this state and federal law and is
695 within the authority of the commission under this section.
696 Inasmuch as delay in the determination of the appeal of a

579-03653-15

2015288c2

697 financing order will delay the issuance of nuclear asset-
698 recovery bonds, thereby diminishing savings to customers which
699 might be achieved if such nuclear asset-recovery bonds were
700 issued as contemplated by a financing order, the Florida Supreme
701 Court shall proceed to hear and determine the action as
702 expeditiously as practicable and give the action precedence over
703 other matters not accorded similar precedence by law.

704 (f)1. A financing order remains in effect and all such
705 nuclear asset-recovery property continues to exist until nuclear
706 asset-recovery bonds issued pursuant to the financing order have
707 been paid in full and all commission-approved financing costs of
708 such nuclear asset-recovery bonds have been recovered in full.

709 2. A financing order issued to an electric utility remains
710 in effect and unabated notwithstanding the reorganization,
711 bankruptcy, or other insolvency proceedings, or merger, or sale
712 of the electric utility or its successors or assignees.

713 (3) EXCEPTIONS TO COMMISSION JURISDICTION.-

714 (a) If the commission issues a financing order to an
715 electric utility pursuant to this section, the commission may
716 not, in exercising its powers and carrying out its duties
717 regarding any matter within its authority pursuant to this
718 chapter, consider the nuclear asset-recovery bonds issued
719 pursuant to the financing order to be the debt of the electric
720 utility other than for federal income tax purposes, consider the
721 nuclear asset-recovery charges paid under the financing order to
722 be the revenue of the electric utility for any purpose, or
723 consider the nuclear asset-recovery costs or financing costs
724 specified in the financing order to be the costs of the electric
725 utility, nor may the commission determine any action taken by an

579-03653-15

2015288c2

726 electric utility which is consistent with the financing order to
727 be unjust or unreasonable.

728 (b) The commission may not order or otherwise directly or
729 indirectly require an electric utility to use nuclear asset-
730 recovery bonds to finance any project, addition, plant,
731 facility, extension, capital improvement, equipment, or any
732 other expenditure, unless that expenditure is a nuclear asset-
733 recovery cost and the electric utility has filed a petition
734 pursuant to paragraph (2) (a) to finance such expenditure using
735 nuclear asset-recovery bonds. The commission may not refuse to
736 allow an electric utility to recover nuclear asset-recovery
737 costs in an otherwise permissible fashion, or refuse or
738 condition authorization or approval pursuant to s. 366.04 of the
739 issuance and sale by an electric utility of securities or the
740 assumption by it of liabilities or obligations, solely because
741 of the potential availability of nuclear asset-recovery cost
742 financing.

743 (4) ELECTRIC UTILITY DUTIES.—The electric bills of an
744 electric utility that has obtained a financing order and caused
745 nuclear asset-recovery bonds to be issued must:

746 (a) Explicitly reflect that a portion of the charges on
747 such bill represents nuclear asset-recovery charges approved in
748 a financing order issued to the electric utility and, if the
749 nuclear asset-recovery property has been transferred to an
750 assignee, must include a statement to the effect that the
751 assignee is the owner of the rights to nuclear asset-recovery
752 charges and that the electric utility or other entity, if
753 applicable, is acting as a collection agent or servicer for the
754 assignee. The tariff applicable to customers must indicate the

579-03653-15

2015288c2

755 nuclear asset-recovery charge and the ownership of that charge.

756 (b) Include the nuclear asset-recovery charge on each
757 customer's bill as a separate line item titled "Asset
758 Securitization Charge" and include both the rate and the amount
759 of the charge on each bill.

760

761 The failure of an electric utility to comply with this
762 subsection does not invalidate, impair, or affect any financing
763 order, nuclear asset-recovery property, nuclear asset-recovery
764 charge, or nuclear asset-recovery bonds, but does subject the
765 electric utility to penalties under s. 366.095.

766 (5) NUCLEAR ASSET-RECOVERY PROPERTY.—

767 (a)1. All nuclear asset-recovery property that is specified
768 in a financing order constitutes an existing, present property
769 right or interest therein, notwithstanding that the imposition
770 and collection of nuclear asset-recovery charges depends on the
771 electric utility, to which the financing order is issued,
772 performing its servicing functions relating to the collection of
773 nuclear asset-recovery charges and on future electricity
774 consumption. Such property exists whether or not the revenues or
775 proceeds arising from the property have been billed, have
776 accrued, or have been collected and notwithstanding the fact
777 that the value or amount of the property is dependent on the
778 future provision of service to customers by the electric utility
779 or its successors or assignees.

780 2. Nuclear asset-recovery property specified in a financing
781 order exists until nuclear asset-recovery bonds issued pursuant
782 to the financing order are paid in full and all financing costs
783 and other costs of such nuclear asset-recovery bonds have been

579-03653-15

2015288c2

784 recovered in full.

785 3. All or any portion of nuclear asset-recovery property
786 specified in a financing order issued to an electric utility may
787 be transferred, sold, conveyed, or assigned to a successor or
788 assignee, that is wholly owned, directly or indirectly, by the
789 electric utility, created for the limited purpose of acquiring,
790 owning, or administering nuclear asset-recovery property or
791 issuing nuclear asset-recovery bonds under the financing order.
792 All or any portion of nuclear asset-recovery property may be
793 pledged to secure nuclear asset-recovery bonds issued pursuant
794 to the financing order, amounts payable to financing parties and
795 to counterparties under any ancillary agreements, and other
796 financing costs. Each such transfer, sale, conveyance,
797 assignment, or pledge by an electric utility or affiliate of an
798 electric utility is considered to be a transaction in the
799 ordinary course of business.

800 4. If an electric utility defaults on any required payment
801 of charges arising from nuclear asset-recovery property
802 specified in a financing order, a court, upon application by an
803 interested party, and without limiting any other remedies
804 available to the applying party, shall order the sequestration
805 and payment of the revenues arising from the nuclear asset-
806 recovery property to the financing parties. Any such financing
807 order remains in full force and effect notwithstanding any
808 reorganization, bankruptcy, or other insolvency proceedings with
809 respect to the electric utility or its successors or assignees.

810 5. The interest of a transferee, purchaser, acquirer,
811 assignee, or pledgee in nuclear asset-recovery property
812 specified in a financing order issued to an electric utility,

579-03653-15

2015288c2

813 and in the revenue and collections arising from that property,
814 is not subject to setoff, counterclaim, surcharge, or defense by
815 the electric utility or any other person or in connection with
816 the reorganization, bankruptcy, or other insolvency of the
817 electric utility or any other entity.

818 6. Any successor to an electric utility, whether pursuant
819 to any reorganization, bankruptcy, or other insolvency
820 proceeding or whether pursuant to any merger or acquisition,
821 sale, or other business combination, or transfer by operation of
822 law, as a result of electric utility restructuring or otherwise,
823 must perform and satisfy all obligations of, and have the same
824 rights under a financing order as, the electric utility under
825 the financing order in the same manner and to the same extent as
826 the electric utility, including collecting and paying to the
827 person entitled to receive the revenues, collections, payments,
828 or proceeds of the nuclear asset-recovery property.

829 (b)1. Except as provided in this section, the Uniform
830 Commercial Code does not apply to nuclear asset-recovery
831 property or any right, title, or interest of an electric utility
832 or assignee described in subparagraph (1)(l)1., whether before
833 or after the issuance of the financing order. In addition, such
834 right, title, or interest pertaining to a financing order,
835 including, but not limited to, the associated nuclear asset-
836 recovery property and any revenues, collections, claims, rights
837 to payment, payments, money, or proceeds of or arising from
838 nuclear asset-recovery charges pursuant to such order, is not
839 deemed proceeds of any right or interest other than in the
840 financing order and the nuclear asset-recovery property arising
841 from the order.

579-03653-15

2015288c2

842 2. The creation, attachment, granting, perfection,
843 priority, and enforcement of liens and security interests in
844 nuclear asset-recovery property to secure nuclear asset-recovery
845 bonds is governed solely by this section and, except to the
846 extent provided in this section, not by the Uniform Commercial
847 Code.

848 3. A valid, enforceable, and attached lien and security
849 interest in nuclear asset-recovery property may be created only
850 upon the later of:

851 a. The issuance of a financing order;

852 b. The execution and delivery of a security agreement with
853 a financing party in connection with the issuance of nuclear
854 asset-recovery bonds; or

855 c. The receipt of value for nuclear asset-recovery bonds.

856

857 A valid, enforceable, and attached security interest is
858 perfected against third parties as of the date of filing of a
859 financing statement in the Florida Secured Transaction Registry,
860 as defined in s. 679.527, in accordance with subparagraph 4.,
861 and is thereafter a continuously perfected lien; and such
862 security interest in the nuclear asset-recovery property and all
863 proceeds of such nuclear asset-recovery property, whether or not
864 billed, accrued, or collected, and whether or not deposited into
865 a deposit account and however evidenced, has priority in
866 accordance with subparagraph 8. and takes precedence over any
867 subsequent judicial or other lien creditor. A continuation
868 statement does not need to be filed to maintain such perfection.

869 4. Financing statements required to be filed pursuant to
870 this section must be filed, maintained, and indexed in the same

579-03653-15

2015288c2

871 manner and in the same system of records maintained for the
872 filing of financing statements in the Florida Secured
873 Transaction Registry, as defined in s. 679.527. The filing of
874 such a financing statement is the only method of perfecting a
875 lien or security interest on nuclear asset-recovery property.

876 5. The priority of a lien and security interest perfected
877 under this paragraph is not impaired by any later modification
878 of the financing order or nuclear asset-recovery property or by
879 the commingling of funds arising from nuclear asset-recovery
880 property with other funds, and any other security interest that
881 may apply to those funds is terminated as to all funds
882 transferred to a segregated account for the benefit of an
883 assignee or a financing party or to an assignee or financing
884 party directly.

885 6. If a default or termination occurs under the terms of
886 the nuclear asset-recovery bonds, the financing parties or their
887 representatives may foreclose on or otherwise enforce their lien
888 and security interest in any nuclear asset-recovery property as
889 if they were a secured party under Art. 9 of the Uniform
890 Commercial Code; and a court may order that amounts arising from
891 nuclear asset-recovery property be transferred to a separate
892 account for the financing parties' benefit, to which their lien
893 and security interest applies. Upon application by or on behalf
894 of the financing parties to a circuit court of this state, the
895 court shall order the sequestration and payment to the financing
896 parties of revenues arising from the nuclear asset-recovery
897 property.

898 7. The interest of a pledgee of an interest or any rights
899 in any nuclear asset-recovery property is not perfected until

579-03653-15

2015288c2

900 filing as provided in subparagraph 4.

901 8. The priority of the conflicting interests of pledgees in
902 the same interest or rights in any nuclear asset-recovery
903 property is determined as follows:

904 a. Conflicting perfected interests or rights of pledgees
905 rank according to priority in time of perfection. Priority dates
906 from the time a filing covering the interest or right is made in
907 accordance with this paragraph.

908 b. A perfected interest or right of a pledgee has priority
909 over a conflicting unperfected interest or right of a pledgee.

910 c. A perfected interest or right of a pledgee has priority
911 over a person who becomes a lien creditor after the perfection
912 of such pledgee's interest or right.

913 (c) The sale, assignment, or transfer of nuclear asset-
914 recovery property is governed by this paragraph. All of the
915 following apply to a sale, assignment, or transfer under this
916 paragraph:

917 1. The sale, conveyance, assignment, or other transfer of
918 nuclear asset-recovery property by an electric utility to an
919 assignee that the parties have in the governing documentation
920 expressly stated to be a sale or other absolute transfer is an
921 absolute transfer and true sale of, and not a pledge of or
922 secured transaction relating to, the transferor's right, title,
923 and interest in, to, and under the nuclear asset-recovery
924 property, other than for federal and state income and franchise
925 tax purposes. After such a transaction, the nuclear asset-
926 recovery property is not subject to any claims of the transferor
927 or the transferor's creditors, other than creditors holding a
928 prior security interest in the nuclear asset-recovery property

579-03653-15

2015288c2

929 perfected under paragraph (b).

930 2. The characterization of the sale, conveyance,
931 assignment, or other transfer as a true sale or other absolute
932 transfer under subparagraph 1. and the corresponding
933 characterization of the transferee's property interest are not
934 affected by:

935 a. Commingling of amounts arising with respect to the
936 nuclear asset-recovery property with other amounts;

937 b. The retention by the transferor of a partial or residual
938 interest, including an equity interest, in the nuclear asset-
939 recovery property, whether direct or indirect, or whether
940 subordinate or otherwise;

941 c. Any recourse that the transferee may have against the
942 transferor other than any such recourse created, contingent
943 upon, or otherwise occurring or resulting from one or more of
944 the transferor's customers' inability or failure to timely pay
945 all or a portion of the nuclear asset-recovery charge;

946 d. Any indemnifications, obligations, or repurchase rights
947 made or provided by the transferor, other than indemnity or
948 repurchase rights based solely upon a transferor's customers'
949 inability or failure to timely pay all or a portion of the
950 nuclear asset-recovery charge;

951 e. The responsibility of the transferor to collect nuclear
952 asset-recovery charges;

953 f. The treatment of the sale, conveyance, assignment, or
954 other transfer for tax, financial reporting, or other purposes;
955 or

956 g. The granting or providing to holders of nuclear asset-
957 recovery bonds a preferred right to the nuclear asset-recovery

579-03653-15

2015288c2

958 property or credit enhancement by the electric utility or its
959 affiliates with respect to such nuclear asset-recovery bonds.

960 3. Any right that an electric utility has in the nuclear
961 asset-recovery property before its pledge, sale, or transfer or
962 any other right created under this section or created in the
963 financing order and assignable under this section or assignable
964 pursuant to a financing order is property in the form of a
965 contract right. Transfer of an interest in nuclear asset-
966 recovery property to an assignee is enforceable only upon the
967 later of the issuance of a financing order, the execution and
968 delivery of transfer documents to the assignee in connection
969 with the issuance of nuclear asset-recovery bonds, and the
970 receipt of value. An enforceable transfer of an interest in
971 nuclear asset-recovery property to an assignee is perfected
972 against all third parties, including subsequent judicial or
973 other lien creditors, when a notice of that transfer has been
974 given by the filing of a financing statement in accordance with
975 subparagraph (b)4. The transfer is perfected against third
976 parties as of the date of filing.

977 4. Financing statements required to be filed under this
978 section must be maintained and indexed in the same manner and in
979 the same system of records maintained for the filing of
980 financing statements in the Florida Secured Transaction
981 Registry, as defined in s. 679.527. The filing of such a
982 financing statement is the only method of perfecting a transfer
983 of nuclear asset-recovery property.

984 5. The priority of a transfer perfected under this section
985 is not impaired by any later modification of the financing order
986 or nuclear asset-recovery property or by the commingling of

579-03653-15

2015288c2

987 funds arising from nuclear asset-recovery property with other
988 funds. Any other security interest that may apply to those
989 funds, other than a security interest perfected under paragraph
990 (b), is terminated when they are transferred to a segregated
991 account for the assignee or a financing party. If nuclear asset-
992 recovery property has been transferred to an assignee or
993 financing party, any proceeds of that property must be held in
994 trust for the assignee or financing party.

995 6. The priority of the conflicting interests of assignees
996 in the same interest or rights in any nuclear asset-recovery
997 property is determined as follows:

998 a. Conflicting perfected interests or rights of assignees
999 rank according to priority in time of perfection. Priority dates
1000 from the time a filing covering the transfer is made in
1001 accordance with subparagraph (b)4.

1002 b. A perfected interest or right of an assignee has
1003 priority over a conflicting unperfected interest or right of an
1004 assignee.

1005 c. A perfected interest or right of an assignee has
1006 priority over a person who becomes a lien creditor after the
1007 perfection of such assignee's interest or right.

1008 (6) DESCRIPTION OR INDICATION OF PROPERTY.—The description
1009 of nuclear asset-recovery property being transferred to an
1010 assignee in any sale agreement, purchase agreement, or other
1011 transfer agreement, granted or pledged to a pledgee in any
1012 security agreement, pledge agreement, or other security
1013 document, or indicated in any financing statement is only
1014 sufficient if such description or indication describes the
1015 financing order that created the nuclear asset-recovery property

579-03653-15

2015288c2

1016 and states that such agreement or financing statement covers all
1017 or part of such property described in such financing order. This
1018 subsection applies to all purported transfers of, and all
1019 purported grants or liens or security interests in, nuclear
1020 asset-recovery property, regardless of whether the related sale
1021 agreement, purchase agreement, other transfer agreement,
1022 security agreement, pledge agreement, or other security document
1023 was entered into, or any financing statement was filed, before
1024 or after the effective date of this section.

1025 (7) FINANCING STATEMENTS.—All financing statements
1026 referenced in this section are subject to Part V of Art. 9 of
1027 the Uniform Commercial Code, except that the requirement as to
1028 continuation statements does not apply.

1029 (8) CHOICE OF LAW.—The law governing the validity,
1030 enforceability, attachment, perfection, priority, and exercise
1031 of remedies with respect to the transfer of an interest or right
1032 or the pledge or creation of a security interest in any nuclear
1033 asset-recovery property shall be the laws of this state, and
1034 exclusively, the laws of this section.

1035 (9) NUCLEAR ASSET-RECOVERY BONDS NOT PUBLIC DEBT.—The state
1036 or its political subdivisions are not liable on any nuclear
1037 asset-recovery bonds, and the bonds are not a debt or a general
1038 obligation of the state or any of its political subdivisions,
1039 agencies, or instrumentalities. An issue of nuclear asset-
1040 recovery bonds does not, directly or indirectly or contingently,
1041 obligate the state or any agency, political subdivision, or
1042 instrumentality of the state to levy any tax or make any
1043 appropriation for payment of the nuclear asset-recovery bonds,
1044 other than in their capacity as consumers of electricity. This

579-03653-15

2015288c2

1045 subsection does not preclude bond guarantees or enhancements
1046 pursuant to this section. All nuclear asset-recovery bonds must
1047 contain on the face thereof a statement to the following effect:
1048 "Neither the full faith and credit nor the taxing power of the
1049 State of Florida is pledged to the payment of the principal of,
1050 or interest on, this bond."

1051 (10) NUCLEAR ASSET-RECOVERY BONDS AS LEGAL INVESTMENTS WITH
1052 RESPECT TO INVESTORS THAT REQUIRE STATUTORY AUTHORITY REGARDING
1053 LEGAL INVESTMENT.-All of the following entities may legally
1054 invest any sinking funds, moneys, or other funds belonging to
1055 them or under their control in nuclear asset-recovery bonds:

1056 (a) The state, the investment board, municipal
1057 corporations, political subdivisions, public bodies, and public
1058 officers, except for members of the commission.

1059 (b) Banks and bankers, savings and loan associations,
1060 credit unions, trust companies, savings banks and institutions,
1061 investment companies, insurance companies, insurance
1062 associations, and other persons carrying on a banking or
1063 insurance business.

1064 (c) Personal representatives, guardians, trustees, and
1065 other fiduciaries.

1066 (d) All other persons whatsoever who are now or may
1067 hereafter be authorized to invest in bonds or other obligations
1068 of a similar nature.

1069 (11) STATE PLEDGE.-

1070 (a) For purposes of this subsection, the term "bondholder"
1071 means a person who holds a nuclear asset-recovery bond.

1072 (b) The state pledges to and agrees with bondholders, the
1073 owners of the nuclear asset-recovery property, and other

579-03653-15

2015288c2

1074 financing parties that the state will not:

1075 1. Alter the provisions of this section which make the
1076 nuclear asset-recovery charges imposed by a financing order
1077 irrevocable, binding, and nonbypassable charges;

1078 2. Take or permit any action that impairs or would impair
1079 the value of nuclear asset-recovery property or revises the
1080 nuclear asset-recovery costs for which recovery is authorized;
1081 or

1082 3. Except as authorized under this section, reduce, alter,
1083 or impair nuclear asset-recovery charges that are to be imposed,
1084 collected, and remitted for the benefit of the bondholders and
1085 other financing parties until any and all principal, interest,
1086 premium, financing costs and other fees, expenses, or charges
1087 incurred, and any contracts to be performed, in connection with
1088 the related nuclear asset-recovery bonds have been paid and
1089 performed in full.

1090
1091 This paragraph does not preclude limitation or alteration if
1092 full compensation is made by law for the full protection of the
1093 nuclear asset-recovery charges collected pursuant to a financing
1094 order and of the holders of nuclear asset-recovery bonds and any
1095 assignee or financing party entering into a contract with the
1096 electric utility.

1097 (c) Any person or entity that issues nuclear asset-recovery
1098 bonds may include the pledge specified in paragraph (b) in the
1099 nuclear asset-recovery bonds and related documentation.

1100 (12) NOT AN ELECTRIC UTILITY.—An assignee or financing
1101 party is not an electric utility or person providing electric
1102 service by virtue of engaging in the transactions described in

579-03653-15

2015288c2

1103 this section.

1104 (13) CONFLICTS.—If there is a conflict between this section
1105 and any other law regarding the attachment, assignment, or
1106 perfection, or the effect of perfection, or priority of,
1107 assignment or transfer of, or security interest in nuclear
1108 asset-recovery property, this section governs.

1109 (14) EFFECT OF INVALIDITY ON ACTIONS.—Effective on the date
1110 that nuclear asset-recovery bonds are first issued under this
1111 section, if any provision of this section is held to be invalid
1112 or is invalidated, superseded, replaced, repealed, or expires
1113 for any reason, that occurrence does not affect the validity of
1114 any action allowed under this section which is taken by an
1115 electric utility, an assignee, a financing party, a collection
1116 agent, or a party to an ancillary agreement; and any such action
1117 remains in full force and effect with respect to all nuclear
1118 asset-recovery bonds issued or authorized in a financing order
1119 issued under this section before the date that such provision is
1120 held to be invalid or is invalidated, superseded, replaced, or
1121 repealed, or that expires for any reason.

1122 (15) PENALTIES.—A violation of this section or of a
1123 financing order issued under this section subjects the utility
1124 that obtained the order to penalties under s. 366.095 and to any
1125 other penalties or remedies that the commission determines are
1126 necessary to achieve the intent of this section and the intent
1127 and terms of the financing order and to prevent any increase in
1128 financial impact to the utility's customers above that set forth
1129 in the financing order. If the commission orders a penalty or a
1130 remedy for a violation, the monetary penalty or remedy and the
1131 costs of defending against the proposed penalty or remedy may

579-03653-15

2015288c2

1132 not be recovered from the customers. The commission may not make
1133 adjustments to nuclear asset-recovery charges for any such
1134 penalties or remedies.

1135 Section 9. For the purpose of incorporating the amendment
1136 made by this act to section 350.01, Florida Statutes, in a
1137 reference thereto, paragraph (a) of subsection (1) of section
1138 403.537, Florida Statutes, is reenacted to read:

1139 403.537 Determination of need for transmission line; powers
1140 and duties.—

1141 (1) (a) Upon request by an applicant or upon its own motion,
1142 the Florida Public Service Commission shall schedule a public
1143 hearing, after notice, to determine the need for a transmission
1144 line regulated by the Florida Electric Transmission Line Siting
1145 Act, ss. 403.52-403.5365. The notice shall be published at least
1146 21 days before the date set for the hearing and shall be
1147 published by the applicant in at least one-quarter page size
1148 notice in newspapers of general circulation, and by the
1149 commission in the manner specified in chapter 120, by giving
1150 notice to counties and regional planning councils in whose
1151 jurisdiction the transmission line could be placed, and by
1152 giving notice to any persons who have requested to be placed on
1153 the mailing list of the commission for this purpose. Within 21
1154 days after receipt of a request for determination by an
1155 applicant, the commission shall set a date for the hearing. The
1156 hearing shall be held pursuant to s. 350.01 within 45 days after
1157 the filing of the request, and a decision shall be rendered
1158 within 60 days after such filing.

1159 Section 10. For the purpose of incorporating the amendment
1160 made by this act to section 350.01, Florida Statutes, in a

579-03653-15

2015288c2

1161 reference thereto, paragraph (a) of subsection (1) of section
1162 403.9422, Florida Statutes, is reenacted to read:

1163 403.9422 Determination of need for natural gas transmission
1164 pipeline; powers and duties.—

1165 (1) (a) Upon request by an applicant or upon its own motion,
1166 the commission shall schedule a public hearing, after notice, to
1167 determine the need for a natural gas transmission pipeline
1168 regulated by ss. 403.9401-403.9425. Such notice shall be
1169 published at least 45 days before the date set for the hearing
1170 and shall be published in at least one-quarter page size in
1171 newspapers of general circulation and in the Florida
1172 Administrative Register, by giving notice to counties and
1173 regional planning councils in whose jurisdiction the natural gas
1174 transmission pipeline could be placed, and by giving notice to
1175 any persons who have requested to be placed on the mailing list
1176 of the commission for this purpose. Within 21 days after receipt
1177 of a request for determination by an applicant, the commission
1178 shall set a date for the hearing. The hearing shall be held
1179 pursuant to s. 350.01 within 75 days after the filing of the
1180 request, and a decision shall be rendered within 90 days after
1181 such filing.

1182 Section 11. For the purpose of incorporating the amendment
1183 made by this act to sections 350.031, 350.041, and 350.042,
1184 Florida Statutes, in a reference thereto, section 350.043,
1185 Florida Statutes, is reenacted to read:

1186 350.043 Enforcement and interpretation.—Any violation of s.
1187 350.031, s. 350.04, s. 350.041, s. 350.042, or s. 350.0605 by a
1188 commissioner, former commissioner, former employee, or Public
1189 Service Commission Nominating Council member shall be punishable

579-03653-15

2015288c2

1190 as provided in ss. 112.317 and 112.324. The Commission on Ethics
1191 is hereby given the power and authority to investigate
1192 complaints of violation of this chapter in the manner provided
1193 in part III of chapter 112, as if this section were included in
1194 that part. A commissioner may request an advisory opinion from
1195 the Commission on Ethics as provided by s. 112.322(3)(a).
1196 Section 12. This act shall take effect July 1, 2015.