

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

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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 from being submitted to or

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30 approved by the Florida Public Service Commission  
31 under certain circumstances; amending s. 366.05, F.S.;  
32 limiting the use of tiered rates in conjunction with  
33 extended billing periods; limiting deposit amounts;  
34 requiring a utility to notify each customer if it has  
35 more than one rate for any customer class; requiring  
36 the utility to provide good faith assistance to the  
37 customer in determining the best rate; assigning  
38 responsibility to the customer for the rate selection;  
39 requiring that the commission approve new tariffs and  
40 certain changes to existing tariffs; amending s.  
41 366.82, F.S.; requiring that money received by a  
42 utility for the development of demand-side renewable  
43 energy systems be used solely for that purpose;  
44 creating s. 366.95, F.S.; defining terms; authorizing  
45 electric utilities to petition the Florida Public  
46 Service Commission for certain financing orders that  
47 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

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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 that certain entities are  
64 not electric utilities under certain circumstances;  
65 specifying effect of certain provisions in situations  
66 of conflict; providing for protecting the validity of  
67 nuclear-asset recovery bonds under certain  
68 circumstances; providing penalties; reenacting ss.  
69 403.537(1)(a) and 403.9422(1)(a), F.S., relating to  
70 determination of need for electric and natural gas  
71 transmission lines, respectively; reenacting s.  
72 350.043, F.S., relating to the enforcement and  
73 interpretation of laws relating to the commission;  
74 providing an appropriation; providing an effective  
75 date.

76

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

78

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

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

85 (3) Any person serving on the commission who seeks to be  
86 appointed or reappointed shall file with the nominating council  
87 no later than June 1 prior to the year in which his or her term

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88 expires a statement that he or she desires to serve an  
89 additional term. A commissioner appointed after July 1, 2015,  
90 may not serve more than three consecutive terms.

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

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

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

105 350.031 Florida Public Service Commission Nominating  
106 Council.—

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

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

116 350.041 Commissioners; standards of conduct.—

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

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

140           Section 4. Subsections (1) and (3) and paragraph (b) of  
141 subsection (7) of section 350.042, Florida Statutes, are amended  
142 to read:

143           350.042 Ex parte communications.—

144           (1) A commissioner should accord to every person who is  
145 legally interested in a proceeding, or the person's lawyer, full

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

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

169 (b) As used in this subsection, the term "active  
170 participation" or the term "participating in" includes, but is  
171 not limited to, attending or speaking at educational sessions,  
172 participating in organization governance by attending meetings,  
173 serving on committees, or in leadership positions, participating  
174 in panel discussions, and attending meals and receptions

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175 associated with such events that are open to all attendees.

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

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

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

195 (7)

196 (b) If the Commission on Ethics finds that there has been a  
197 violation of this section by a public service commissioner, it  
198 shall provide the Governor and the Florida Public Service  
199 Commission Nominating Council with a report of its findings and  
200 recommendations. The Governor shall remove from office a  
201 commissioner who willfully and knowingly violates this section  
202 and is authorized to enforce the findings and recommendations of  
203 the Commission on Ethics, pursuant to part III of chapter 112.

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204 Section 5. Section 350.0611, Florida Statutes, is amended  
205 to read:

206 350.0611 Public Counsel; duties and powers.—It shall be the  
207 duty of the Public Counsel to provide legal representation for  
208 the people of the state in proceedings before the commission and  
209 in proceedings before counties pursuant to s. 367.171(8). The  
210 Public Counsel shall have such powers as are necessary to carry  
211 out the duties of his or her office, including, but not limited  
212 to, the following specific powers:

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

225 (2) To have access to and use of all files, records, and  
226 data of the commission or the counties available to any other  
227 attorney representing parties in a proceeding before the  
228 commission or the counties;

229 (3) In any proceeding before the commission in which he or  
230 she has participated as a party, to be a party to a settlement  
231 agreement. If he or she is not a party to the settlement  
232 agreement, and has filed a written objection to it, the



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233 settlement agreement may not be submitted to or approved by the  
234 commission;

235 (4)~~(3)~~ In any proceeding in which he or she has  
236 participated as a party, to seek review of any determination,  
237 finding, or order of the commission or the counties, or of any  
238 hearing examiner designated by the commission or the counties,  
239 in the name of the state or its citizens;

240 (5)~~(4)~~ To prepare and issue reports, recommendations, and  
241 proposed orders to the commission, the Governor, and the  
242 Legislature on any matter or subject within the jurisdiction of  
243 the commission, and to make such recommendations as he or she  
244 deems appropriate for legislation relative to commission  
245 procedures, rules, jurisdiction, personnel, and functions; and

246 (6)~~(5)~~ To appear before other state agencies, federal  
247 agencies, and state and federal courts in connection with  
248 matters under the jurisdiction of the commission, in the name of  
249 the state or its citizens.

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

252 366.05 Powers.—

253 (1) (a) In the exercise of such jurisdiction, the commission  
254 shall have power to prescribe fair and reasonable rates and  
255 charges, classifications, standards of quality and measurements,  
256 including the ability to adopt construction standards that  
257 exceed the National Electrical Safety Code, for purposes of  
258 ensuring the reliable provision of service, and service rules  
259 and regulations to be observed by each public utility; to  
260 require repairs, improvements, additions, replacements, and  
261 extensions to the plant and equipment of any public utility when

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262 reasonably necessary to promote the convenience and welfare of  
263 the public and secure adequate service or facilities for those  
264 reasonably entitled thereto; to employ and fix the compensation  
265 for such examiners and technical, legal, and clerical employees  
266 as it deems necessary to carry out the provisions of this  
267 chapter; and to adopt rules pursuant to ss. 120.536(1) and  
268 120.54 to implement and enforce the provisions of this chapter.

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

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

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

283 2. For a new customer, the amount may not exceed 2 months  
284 of projected charges, calculated using the process specified in  
285 subparagraph 1. Once a new customer has had continuous service  
286 for a 12-month period, the amount of the deposit shall be  
287 recalculated, using actual usage data. Any difference between  
288 the projected and actual amounts must be resolved by the  
289 customer paying any additional amount due or the utility  
290 returning any overcharge.

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

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

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

305 366.82 Definition; goals; plans; programs; annual reports;  
306 energy audits.—

307 (2) The commission shall adopt appropriate goals for  
308 increasing the efficiency of energy consumption and increasing  
309 the development of demand-side renewable energy systems,  
310 specifically including goals designed to increase the  
311 conservation of expensive resources, such as petroleum fuels, to  
312 reduce and control the growth rates of electric consumption, to  
313 reduce the growth rates of weather-sensitive peak demand, and to  
314 encourage development of demand-side renewable energy resources.  
315 The commission may allow efficiency investments across  
316 generation, transmission, and distribution as well as  
317 efficiencies within the user base. Money received by a utility  
318 for implementation of measures to encourage development of  
319 demand-side renewable energy systems shall be used solely for

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320 such purpose.

321 Section 8. Section 366.95, Florida Statutes, is created to  
322 read:

323 366.95 Financing for certain nuclear generating asset  
324 retirement or abandonment costs.-

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

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

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

340 (c) "Commission" means the Florida Public Service  
341 Commission.

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

344 (e) "Financing costs" means:

345 1. Interest and acquisition, defeasance, or redemption  
346 premiums that are payable on nuclear asset-recovery bonds;

347 2. Any payment required under an ancillary agreement and  
348 any amount required to fund or replenish a reserve account or

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349 other accounts established under the terms of any indenture,  
350 ancillary agreement, or other financing documents pertaining to  
351 nuclear asset-recovery bonds;

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

364 4. Any taxes and license fees imposed on the revenues  
365 generated from the collection of the nuclear asset-recovery  
366 charge;

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

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

373 (f) "Financing order" means an order that authorizes the  
374 issuance of nuclear asset-recovery bonds; the imposition,  
375 collection, and periodic adjustments of the nuclear asset-  
376 recovery charge; and the creation of nuclear asset-recovery  
377 property.

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

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

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

397 (j) "Nuclear asset-recovery charge" means the amounts  
398 authorized by the commission to repay, finance, or refinance  
399 nuclear asset-recovery costs and financing costs. If determined  
400 appropriate by the commission and provided for in a financing  
401 order, such amounts are to be imposed on and be a part of all  
402 customer bills and be collected by an electric utility or its  
403 successors or assignees, or a collection agent, in full through  
404 a nonbypassable charge that is separate and apart from the  
405 electric utility's base rates, which charge shall be paid by all  
406 existing or future customers receiving transmission or

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407 distribution service from the electric utility or its successors  
408 or assignees under commission-approved rate schedules or under  
409 special contracts, even if a customer elects to purchase  
410 electricity from an alternative electricity supplier following a  
411 fundamental change in regulation of public utilities in this  
412 state.

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

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

430 2. Such pretax costs, where determined appropriate by the  
431 commission, include, but are not limited to, the capitalized  
432 cost of the retired or abandoned nuclear generating asset unit,  
433 other applicable capital and operating costs, accrued carrying  
434 charges, deferred expenses, reductions for applicable insurance  
435 and salvage proceeds and previously stipulated write-downs or

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436 write-offs, if any, and the costs of retiring any existing  
437 indebtedness, fees, costs, and expenses to modify existing debt  
438 agreements or for waivers or consents related to existing debt  
439 agreements.

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

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

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

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

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

461 (2) FINANCING ORDERS.—

462 (a) An electric utility may petition the commission for a  
463 financing order. For each petition, the electric utility shall:

464 1. Describe the nuclear asset-recovery costs;



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465 2. Indicate whether the utility proposes to finance all or  
466 a portion of the nuclear asset-recovery costs using nuclear  
467 asset-recovery bonds. If the utility proposes to finance a  
468 portion of such costs, the utility must identify which specific  
469 portion in the petition;

470 3. Estimate the financing costs related to the nuclear  
471 asset-recovery bonds;

472 4. Estimate the nuclear asset-recovery charges necessary to  
473 recover the nuclear asset-recovery costs and financing costs and  
474 the period for recovery of such costs;

475 5. Estimate any projected cost savings, based on current  
476 market conditions, or demonstrate how the issuance of nuclear  
477 asset-recovery bonds and the imposition of nuclear asset-  
478 recovery charges would avoid or significantly mitigate rate  
479 impacts to customers as compared with the traditional method of  
480 financing and recovering nuclear asset-recovery costs from  
481 customers;

482 6. Demonstrate that securitization has a significant  
483 likelihood of resulting in lower overall costs or would avoid or  
484 significantly mitigate rate impacts compared to traditional  
485 method of cost recovery; and

486 7. File direct testimony supporting the petition.

487 (b) If an electric utility is subject to a settlement  
488 agreement that governs the type and amount of principal costs  
489 that could be included in nuclear asset-recovery costs, the  
490 electric utility must file a petition, or have filed a petition,  
491 with the commission for review and approval of those principal  
492 costs no later than 60 days before filing a petition for a  
493 financing order pursuant to this section. The commission may not

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494 authorize any such principal costs to be included or excluded,  
495 as applicable, as nuclear asset-recovery costs if such inclusion  
496 or exclusion, as applicable, of those costs would otherwise be  
497 precluded by such electric utility's settlement agreement.

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

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

509 b. No later than 135 days after the date the petition is  
510 filed, the commission shall issue a financing order or an order  
511 rejecting the petition. A party to the commission proceeding may  
512 petition the commission for reconsideration of the financing  
513 order within 5 days after the date of its issuance. The  
514 commission shall issue a financing order authorizing financing  
515 of reasonable and prudent nuclear asset-recovery costs and  
516 financing costs if the commission finds that the issuance of the  
517 nuclear asset-recovery bonds and the imposition of nuclear  
518 asset-recovery charges authorized by the financing order have a  
519 significant likelihood of resulting in lower overall costs or  
520 would avoid or significantly mitigate rate impacts to customers  
521 as compared with the traditional method of financing and  
522 recovering nuclear asset-recovery costs. Any determination of

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523 whether nuclear asset-recovery costs are reasonable and prudent  
524 shall be made with reference to the general public interest and  
525 in accordance with paragraph (b), if applicable.

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

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

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

548 c. Require, for the period specified pursuant to sub-  
549 subparagraph a., that the imposition and collection of nuclear  
550 asset-recovery charges authorized under a financing order be  
551 nonbypassable and paid by all existing and future customers

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552 receiving transmission or distribution service from the electric  
553 utility or its successors or assignees under commission-approved  
554 rate schedules or under special contracts, even if a customer  
555 elects to purchase electricity from an alternative electric  
556 supplier following a fundamental change in regulation of public  
557 utilities in this state;

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

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

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

576 g. Require nuclear asset-recovery charges to be allocated  
577 to the customer classes using the criteria set out in s.  
578 366.06(1), in the manner in which these costs or their  
579 equivalent were allocated in the cost-of-service study that was  
580 approved in connection with the electric utility's last rate

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581 case and that is in effect during the nuclear asset-recovery  
582 charge annual billing period. If the electric utility's last  
583 rate case was resolved by a settlement agreement, the cost-of-  
584 service methodology that was adopted in the settlement agreement  
585 in that case and that is in effect during the nuclear asset-  
586 recovery charge annual billing period shall be used;

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

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

598  
599 In performing the responsibilities of this subparagraph and  
600 subparagraph 5., the commission may engage outside consultants  
601 or counsel. All expenses associated with such services must be  
602 included as part of financing costs and included in the nuclear  
603 asset-recovery charge.

604 3. A financing order issued to an electric utility may  
605 provide that creation of the electric utility's nuclear asset-  
606 recovery property pursuant to sub-subparagraph 2.e. is  
607 conditioned upon, and simultaneous with, the sale or other  
608 transfer of the nuclear asset-recovery property to an assignee  
609 and the pledge of the nuclear asset-recovery property to secure

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610 nuclear asset-recovery bonds.

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

636 5. Within 120 days after the issuance of nuclear asset-  
637 recovery bonds, the electric utility shall file with the  
638 commission information on the actual costs of the nuclear asset-

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

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

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668 may not recover financing costs as defined in paragraph (1) (e)  
669 from customers.

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

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



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697 issued as contemplated by a financing order, the Florida Supreme  
698 Court shall proceed to hear and determine the action as  
699 expeditiously as practicable and give the action precedence over  
700 other matters not accorded similar precedence by law.

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

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

710 (3) EXCEPTIONS TO COMMISSION JURISDICTION.-

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

725 (b) The commission may not order or otherwise directly or

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

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

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

753 (b) Include the nuclear asset-recovery charge on each  
754 customer's bill as a separate line item titled "Asset

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755 Securitization Charge” and include both the rate and the amount  
756 of the charge on each bill.

757

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

763 (5) NUCLEAR ASSET-RECOVERY PROPERTY.—

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

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

782 3. All or any portion of nuclear asset-recovery property  
783 specified in a financing order issued to an electric utility may

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

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

807 5. The interest of a transferee, purchaser, acquirer,  
808 assignee, or pledgee in nuclear asset-recovery property  
809 specified in a financing order issued to an electric utility,  
810 and in the revenue and collections arising from that property,  
811 is not subject to setoff, counterclaim, surcharge, or defense by  
812 the electric utility or any other person or in connection with

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813 the reorganization, bankruptcy, or other insolvency of the  
814 electric utility or any other entity.

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

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

839 2. The creation, attachment, granting, perfection,  
840 priority, and enforcement of liens and security interests in  
841 nuclear asset-recovery property to secure nuclear asset-recovery

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842 bonds is governed solely by this section and, except to the  
843 extent provided in this section, not by the Uniform Commercial  
844 Code.

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

848 a. The issuance of a financing order;

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

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

853  
854 A valid, enforceable, and attached security interest is  
855 perfected against third parties as of the date of filing of a  
856 financing statement in the Florida Secured Transaction Registry,  
857 as defined in s. 679.527, in accordance with subparagraph 4.,  
858 and is thereafter a continuously perfected lien; and such  
859 security interest in the nuclear asset-recovery property and all  
860 proceeds of such nuclear asset-recovery property, whether or not  
861 billed, accrued, or collected, and whether or not deposited into  
862 a deposit account and however evidenced, has priority in  
863 accordance with subparagraph 8. and takes precedence over any  
864 subsequent judicial or other lien creditor. A continuation  
865 statement does not need to be filed to maintain such perfection.

866 4. Financing statements required to be filed pursuant to  
867 this section must be filed, maintained, and indexed in the same  
868 manner and in the same system of records maintained for the  
869 filing of financing statements in the Florida Secured  
870 Transaction Registry, as defined in s. 679.527. The filing of

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871 such a financing statement is the only method of perfecting a  
872 lien or security interest on nuclear asset-recovery property.

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

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

895 7. The interest of a pledgee of an interest or any rights  
896 in any nuclear asset-recovery property is not perfected until  
897 filing as provided in subparagraph 4.

898 8. The priority of the conflicting interests of pledgees in  
899 the same interest or rights in any nuclear asset-recovery

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900 property is determined as follows:

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

905 b. A perfected interest or right of a pledgee has priority  
906 over a conflicting unperfected interest or right of a pledgee.

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

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

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

927 2. The characterization of the sale, conveyance,  
928 assignment, or other transfer as a true sale or other absolute



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929 transfer under subparagraph 1. and the corresponding  
930 characterization of the transferee's property interest are not  
931 affected by:

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

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

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

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

948 e. The responsibility of the transferor to collect nuclear  
949 asset-recovery charges;

950 f. The treatment of the sale, conveyance, assignment, or  
951 other transfer for tax, financial reporting, or other purposes;  
952 or

953 g. The granting or providing to holders of nuclear asset-  
954 recovery bonds a preferred right to the nuclear asset-recovery  
955 property or credit enhancement by the electric utility or its  
956 affiliates with respect to such nuclear asset-recovery bonds.

957 3. Any right that an electric utility has in the nuclear

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

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

981 5. The priority of a transfer perfected under this section  
982 is not impaired by any later modification of the financing order  
983 or nuclear asset-recovery property or by the commingling of  
984 funds arising from nuclear asset-recovery property with other  
985 funds. Any other security interest that may apply to those  
986 funds, other than a security interest perfected under paragraph

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987 (b), is terminated when they are transferred to a segregated  
988 account for the assignee or a financing party. If nuclear asset-  
989 recovery property has been transferred to an assignee or  
990 financing party, any proceeds of that property must be held in  
991 trust for the assignee or financing party.

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

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

999 b. A perfected interest or right of an assignee has  
1000 priority over a conflicting unperfected interest or right of an  
1001 assignee.

1002 c. A perfected interest or right of an assignee has  
1003 priority over a person who becomes a lien creditor after the  
1004 perfection of such assignee's interest or right.

1005 (6) DESCRIPTION OR INDICATION OF PROPERTY.—The description  
1006 of nuclear asset-recovery property being transferred to an  
1007 assignee in any sale agreement, purchase agreement, or other  
1008 transfer agreement, granted or pledged to a pledgee in any  
1009 security agreement, pledge agreement, or other security  
1010 document, or indicated in any financing statement is only  
1011 sufficient if such description or indication describes the  
1012 financing order that created the nuclear asset-recovery property  
1013 and states that such agreement or financing statement covers all  
1014 or part of such property described in such financing order. This  
1015 subsection applies to all purported transfers of, and all

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1016 purported grants or liens or security interests in, nuclear  
1017 asset-recovery property, regardless of whether the related sale  
1018 agreement, purchase agreement, other transfer agreement,  
1019 security agreement, pledge agreement, or other security document  
1020 was entered into, or any financing statement was filed, before  
1021 or after the effective date of this section.

1022 (7) FINANCING STATEMENTS.—All financing statements  
1023 referenced in this section are subject to Part V of Art. 9 of  
1024 the Uniform Commercial Code, except that the requirement as to  
1025 continuation statements does not apply.

1026 (8) CHOICE OF LAW.—The law governing the validity,  
1027 enforceability, attachment, perfection, priority, and exercise  
1028 of remedies with respect to the transfer of an interest or right  
1029 or the pledge or creation of a security interest in any nuclear  
1030 asset-recovery property shall be the laws of this state, and  
1031 exclusively, the laws of this section.

1032 (9) NUCLEAR ASSET-RECOVERY BONDS NOT PUBLIC DEBT.—The state  
1033 or its political subdivisions are not liable on any nuclear  
1034 asset-recovery bonds, and the bonds are not a debt or a general  
1035 obligation of the state or any of its political subdivisions,  
1036 agencies, or instrumentalities. An issue of nuclear asset-  
1037 recovery bonds does not, directly or indirectly or contingently,  
1038 obligate the state or any agency, political subdivision, or  
1039 instrumentality of the state to levy any tax or make any  
1040 appropriation for payment of the nuclear asset-recovery bonds,  
1041 other than in their capacity as consumers of electricity. This  
1042 subsection does not preclude bond guarantees or enhancements  
1043 pursuant to this section. All nuclear asset-recovery bonds must  
1044 contain on the face thereof a statement to the following effect:

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1045 "Neither the full faith and credit nor the taxing power of the  
1046 State of Florida is pledged to the payment of the principal of,  
1047 or interest on, this bond."

1048 (10) NUCLEAR ASSET-RECOVERY BONDS AS LEGAL INVESTMENTS WITH  
1049 RESPECT TO INVESTORS THAT REQUIRE STATUTORY AUTHORITY REGARDING  
1050 LEGAL INVESTMENT.—All of the following entities may legally  
1051 invest any sinking funds, moneys, or other funds belonging to  
1052 them or under their control in nuclear asset-recovery bonds:

1053 (a) The state, the investment board, municipal  
1054 corporations, political subdivisions, public bodies, and public  
1055 officers, except for members of the commission.

1056 (b) Banks and bankers, savings and loan associations,  
1057 credit unions, trust companies, savings banks and institutions,  
1058 investment companies, insurance companies, insurance  
1059 associations, and other persons carrying on a banking or  
1060 insurance business.

1061 (c) Personal representatives, guardians, trustees, and  
1062 other fiduciaries.

1063 (d) All other persons whatsoever who are now or may  
1064 hereafter be authorized to invest in bonds or other obligations  
1065 of a similar nature.

1066 (11) STATE PLEDGE.—

1067 (a) For purposes of this subsection, the term "bondholder"  
1068 means a person who holds a nuclear asset-recovery bond.

1069 (b) The state pledges to and agrees with bondholders, the  
1070 owners of the nuclear asset-recovery property, and other  
1071 financing parties that the state will not:

1072 1. Alter the provisions of this section which make the  
1073 nuclear asset-recovery charges imposed by a financing order

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1074 irrevocable, binding, and nonbypassable charges;

1075 2. Take or permit any action that impairs or would impair  
1076 the value of nuclear asset-recovery property or revises the  
1077 nuclear asset-recovery costs for which recovery is authorized;  
1078 or

1079 3. Except as authorized under this section, reduce, alter,  
1080 or impair nuclear asset-recovery charges that are to be imposed,  
1081 collected, and remitted for the benefit of the bondholders and  
1082 other financing parties until any and all principal, interest,  
1083 premium, financing costs and other fees, expenses, or charges  
1084 incurred, and any contracts to be performed, in connection with  
1085 the related nuclear asset-recovery bonds have been paid and  
1086 performed in full.

1087  
1088 This paragraph does not preclude limitation or alteration if  
1089 full compensation is made by law for the full protection of the  
1090 nuclear asset-recovery charges collected pursuant to a financing  
1091 order and of the holders of nuclear asset-recovery bonds and any  
1092 assignee or financing party entering into a contract with the  
1093 electric utility.

1094 (c) Any person or entity that issues nuclear asset-recovery  
1095 bonds may include the pledge specified in paragraph (b) in the  
1096 nuclear asset-recovery bonds and related documentation.

1097 (12) NOT AN ELECTRIC UTILITY.—An assignee or financing  
1098 party is not an electric utility or person providing electric  
1099 service by virtue of engaging in the transactions described in  
1100 this section.

1101 (13) CONFLICTS.—If there is a conflict between this section  
1102 and any other law regarding the attachment, assignment, or

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1103 perfection, or the effect of perfection, or priority of,  
1104 assignment or transfer of, or security interest in nuclear  
1105 asset-recovery property, this section governs.

1106 (14) EFFECT OF INVALIDITY ON ACTIONS.—Effective on the date  
1107 that nuclear asset-recovery bonds are first issued under this  
1108 section, if any provision of this section is held to be invalid  
1109 or is invalidated, superseded, replaced, repealed, or expires  
1110 for any reason, that occurrence does not affect the validity of  
1111 any action allowed under this section which is taken by an  
1112 electric utility, an assignee, a financing party, a collection  
1113 agent, or a party to an ancillary agreement; and any such action  
1114 remains in full force and effect with respect to all nuclear  
1115 asset-recovery bonds issued or authorized in a financing order  
1116 issued under this section before the date that such provision is  
1117 held to be invalid or is invalidated, superseded, replaced, or  
1118 repealed, or that expires for any reason.

1119 (15) PENALTIES.—A violation of this section or of a  
1120 financing order issued under this section subjects the utility  
1121 that obtained the order to penalties under s. 366.095 and to any  
1122 other penalties or remedies that the commission determines are  
1123 necessary to achieve the intent of this section and the intent  
1124 and terms of the financing order and to prevent any increase in  
1125 financial impact to the utility's customers above that set forth  
1126 in the financing order. If the commission orders a penalty or a  
1127 remedy for a violation, the monetary penalty or remedy and the  
1128 costs of defending against the proposed penalty or remedy may  
1129 not be recovered from the customers. The commission may not make  
1130 adjustments to nuclear asset-recovery charges for any such  
1131 penalties or remedies.

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1132 Section 9. For the purpose of incorporating the amendment  
1133 made by this act to section 350.01, Florida Statutes, in a  
1134 reference thereto, paragraph (a) of subsection (1) of section  
1135 403.537, Florida Statutes, is reenacted to read:

1136 403.537 Determination of need for transmission line; powers  
1137 and duties.—

1138 (1) (a) Upon request by an applicant or upon its own motion,  
1139 the Florida Public Service Commission shall schedule a public  
1140 hearing, after notice, to determine the need for a transmission  
1141 line regulated by the Florida Electric Transmission Line Siting  
1142 Act, ss. 403.52-403.5365. The notice shall be published at least  
1143 21 days before the date set for the hearing and shall be  
1144 published by the applicant in at least one-quarter page size  
1145 notice in newspapers of general circulation, and by the  
1146 commission in the manner specified in chapter 120, by giving  
1147 notice to counties and regional planning councils in whose  
1148 jurisdiction the transmission line could be placed, and by  
1149 giving notice to any persons who have requested to be placed on  
1150 the mailing list of the commission for this purpose. Within 21  
1151 days after receipt of a request for determination by an  
1152 applicant, the commission shall set a date for the hearing. The  
1153 hearing shall be held pursuant to s. 350.01 within 45 days after  
1154 the filing of the request, and a decision shall be rendered  
1155 within 60 days after such filing.

1156 Section 10. For the purpose of incorporating the amendment  
1157 made by this act to section 350.01, Florida Statutes, in a  
1158 reference thereto, paragraph (a) of subsection (1) of section  
1159 403.9422, Florida Statutes, is reenacted to read:

1160 403.9422 Determination of need for natural gas transmission



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1161 pipeline; powers and duties.—

1162 (1) (a) Upon request by an applicant or upon its own motion,  
1163 the commission shall schedule a public hearing, after notice, to  
1164 determine the need for a natural gas transmission pipeline  
1165 regulated by ss. 403.9401-403.9425. Such notice shall be  
1166 published at least 45 days before the date set for the hearing  
1167 and shall be published in at least one-quarter page size in  
1168 newspapers of general circulation and in the Florida  
1169 Administrative Register, by giving notice to counties and  
1170 regional planning councils in whose jurisdiction the natural gas  
1171 transmission pipeline could be placed, and by giving notice to  
1172 any persons who have requested to be placed on the mailing list  
1173 of the commission for this purpose. Within 21 days after receipt  
1174 of a request for determination by an applicant, the commission  
1175 shall set a date for the hearing. The hearing shall be held  
1176 pursuant to s. 350.01 within 75 days after the filing of the  
1177 request, and a decision shall be rendered within 90 days after  
1178 such filing.

1179 Section 11. For the purpose of incorporating the amendment  
1180 made by this act to sections 350.031, 350.041, and 350.042,  
1181 Florida Statutes, in a reference thereto, section 350.043,  
1182 Florida Statutes, is reenacted to read:

1183 350.043 Enforcement and interpretation.—Any violation of s.  
1184 350.031, s. 350.04, s. 350.041, s. 350.042, or s. 350.0605 by a  
1185 commissioner, former commissioner, former employee, or Public  
1186 Service Commission Nominating Council member shall be punishable  
1187 as provided in ss. 112.317 and 112.324. The Commission on Ethics  
1188 is hereby given the power and authority to investigate  
1189 complaints of violation of this chapter in the manner provided

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1190 in part III of chapter 112, as if this section were included in  
1191 that part. A commissioner may request an advisory opinion from  
1192 the Commission on Ethics as provided by s. 112.322(3)(a).

1193 Section 12. For the 2015-2016 fiscal year, the sums of  
1194 \$60,395 in recurring and \$13,775 in nonrecurring funds from the  
1195 General Revenue Fund are appropriated to the Florida Public  
1196 Service Commission for the purpose of implementing this act.

1197 Section 13. This act shall take effect July 1, 2015.