

By Senator Sobel

33-01258-16

20161478\_\_

1                   A bill to be entitled  
2           An act relating to utility advanced cost recovery;  
3           amending s. 366.93, F.S.; providing for the expiration  
4           of provisions authorizing advanced cost recovery for  
5           nuclear and integrated gasification combined cycle  
6           power plants; requiring certain funds to be returned  
7           to ratepayers; prohibiting utilities from increasing  
8           or imposing charges to offset the loss of utility  
9           revenues as a result of refunding moneys from the  
10          collection of advanced cost recovery fees; providing  
11          for future repeal; amending s. 366.95, F.S.;  
12          conforming provisions regarding advanced cost recovery  
13          and securitization; amending s. 403.519, F.S.;  
14          deleting provisions limiting challenges to a utility's  
15          right to recover advanced costs incurred before  
16          commercial operation of nuclear or integrated  
17          gasification combined cycle power plants; prohibiting  
18          utilities from continuing to collect advanced costs  
19          for certain plants after a specified date; providing  
20          an effective date.

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

23  
24           Section 1. Subsection (7) is added to section 366.93,  
25 Florida Statutes, to read:

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

29           (7) Subsections (1)-(6) shall expire July 1, 2016. All  
30 costs collected by a utility pursuant to this section shall be  
31 returned to the ratepayers of the utility by June 30, 2017. The  
32 utility may not charge new fees, increase fees, or increase the

33-01258-16

20161478\_\_

33 rates of ratepayers who paid the advanced cost recovery fees,  
34 which would otherwise offset the loss of utility revenues as a  
35 result of refunding costs to ratepayers. This section is  
36 repealed July 1, 2017.

37 Section 2. Paragraph (k) of subsection (1) of section  
38 366.95, Florida Statutes, is amended to read:

39 366.95 Financing for certain nuclear generating asset  
40 retirement or abandonment costs.—

41 (1) DEFINITIONS.—As used in this section, the term:

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

43 1. At the option of and upon petition by the electric  
44 utility, and as approved by the commission pursuant to sub-  
45 subparagraph (2)(c)1.b., pretax costs that an electric utility  
46 has incurred or expects to incur which are caused by, associated  
47 with, or remain as a result of the early retirement or  
48 abandonment of a nuclear generating asset unit that generated  
49 electricity and is located in this state where such early  
50 retirement or abandonment is deemed to be reasonable and prudent  
51 by the commission through a final order approving a settlement  
52 or other final order issued by the commission before July 1,  
53 2017, and where the pretax costs to be securitized exceed \$750  
54 million at the time of the filing of the petition. Costs  
55 ~~eligible or~~ claimed for recovery pursuant to s. 366.93, Florida  
56 Statutes 2016, are not eligible for securitization under this  
57 section unless they were in the electric utility's rate base and  
58 were included in base rates before retirement or abandonment.

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

33-01258-16

20161478\_\_

62 other applicable capital and operating costs, accrued carrying  
63 charges, deferred expenses, reductions for applicable insurance  
64 and salvage proceeds and previously stipulated write-downs or  
65 write-offs, if any, and the costs of retiring any existing  
66 indebtedness, fees, costs, and expenses to modify existing debt  
67 agreements or for waivers or consents related to existing debt  
68 agreements.

69 Section 3. Paragraph (e) of subsection (4) of section  
70 403.519, Florida Statutes, is amended to read:

71 403.519 Exclusive forum for determination of need.—

72 (4) In making its determination on a proposed electrical  
73 power plant using nuclear materials or synthesis gas produced by  
74 integrated gasification combined cycle power plant as fuel, the  
75 commission shall hold a hearing within 90 days after the filing  
76 of the petition to determine need and shall issue an order  
77 granting or denying the petition within 135 days after the date  
78 of the filing of the petition. The commission shall be the sole  
79 forum for the determination of this matter and the issues  
80 addressed in the petition, which accordingly shall not be  
81 reviewed in any other forum, or in the review of proceedings in  
82 such other forum. In making its determination to either grant or  
83 deny the petition, the commission shall consider the need for  
84 electric system reliability and integrity, including fuel  
85 diversity, the need for base-load generating capacity, the need  
86 for adequate electricity at a reasonable cost, and whether  
87 renewable energy sources and technologies, as well as  
88 conservation measures, are utilized to the extent reasonably  
89 available.

90 ~~(e) After a petition for determination of need for a~~

33-01258-16

20161478\_\_

91 ~~nuclear or integrated gasification combined cycle power plant~~  
92 ~~has been granted, the right of a utility to recover any costs~~  
93 ~~incurred prior to commercial operation, including, but not~~  
94 ~~limited to, costs associated with the siting, design, licensing,~~  
95 ~~or construction of the plant and new, expanded, or relocated~~  
96 ~~electrical transmission lines or facilities of any size that are~~  
97 ~~necessary to serve the nuclear power plant, shall not be subject~~  
98 ~~to challenge unless and only to the extent the commission finds,~~  
99 ~~based on a preponderance of the evidence adduced at a hearing~~  
100 ~~before the commission under s. 120.57, that certain costs were~~  
101 ~~imprudently incurred. Proceeding with the construction of the~~  
102 ~~nuclear or integrated gasification combined cycle power plant~~  
103 ~~following an order by the commission approving the need for the~~  
104 ~~nuclear or integrated gasification combined cycle power plant~~  
105 ~~under this act shall not constitute or be evidence of~~  
106 ~~imprudence. Imprudence shall not include any cost increases due~~  
107 ~~to events beyond the utility's control. Further, a utility's~~  
108 ~~right to recover costs associated with a nuclear or integrated~~  
109 ~~gasification combined cycle power plant may not be raised in any~~  
110 ~~other forum or in the review of proceedings in such other forum.~~  
111 ~~Costs incurred prior to commercial operation shall be recovered~~  
112 ~~pursuant to chapter 366.~~

113 Section 4. This act shall take effect upon becoming a law.