

By Senator Gruters

23-00589-19

2019796\_\_

1                                   A bill to be entitled  
2       An act relating to public utility storm protection  
3       plans; creating s. 366.96, F.S.; providing legislative  
4       findings; defining terms; requiring public utilities  
5       to individually submit to the Public Service  
6       Commission, for review and approval, a transmission  
7       and distribution storm protection plan as part of the  
8       storm hardening plan required by the commission;  
9       requiring utilities to update their respective plans  
10      on a specified basis; requiring the commission to  
11      approve or modify submitted plans within a specified  
12      timeframe, taking into consideration specified  
13      factors; requiring the commission to conduct an annual  
14      proceeding to allow utilities to justify and recover  
15      certain costs through a storm protection cost recovery  
16      clause; providing that a party may challenge the  
17      prudence of certain costs; providing that utilities  
18      may not include certain costs in their base rates;  
19      providing for the allocation of such costs;  
20      authorizing utilities to recover depreciation on  
21      certain capital costs through the recovery clause;  
22      requiring utilities to record certain costs in a storm  
23      protection reserve account, which must be used for a  
24      certain purpose; requiring that certain surplus funds  
25      be returned to customers through the recovery clause;  
26      requiring the commission, under certain circumstances,  
27      to establish a factor intended to recover certain  
28      required revenue; providing the basis for the factor;  
29      requiring that the factor provide for the true-up of

23-00589-19

2019796\_\_

30 certain costs at least annually and that it require  
31 that certain refunds or collections related to the  
32 true-up include interest; requiring the commission to  
33 adopt rules; providing an effective date.  
34

35 Be It Enacted by the Legislature of the State of Florida:  
36

37 Section 1. Section 366.96, Florida Statutes, is created to  
38 read:

39 366.96 Public utility transmission and distribution storm  
40 protection plans.-

41 (1) The Legislature finds that:

42 (a) It is in the public interest to promote storm  
43 protection activities, such as the overhead hardening of  
44 electrical transmission and distribution facilities, the  
45 undergrounding of certain electrical distribution lines, and  
46 increased vegetation management in this state.

47 (b) Undertaking storm protection for utilities'  
48 transmission and distribution systems will substantially  
49 strengthen the ability of the public utility's electric  
50 infrastructure to withstand extreme weather conditions, reduce  
51 restoration costs and outage times to customers affected by  
52 extreme weather conditions, and improve the overall service  
53 reliability for customers in this state.

54 (c) When considering issues relating to costs, reliability,  
55 storm protection and restoration, and the public convenience and  
56 necessity, the future undergrounding of electrical distribution  
57 lines must focus primarily on distribution laterals.

58 (d) When considering incurring additional transmission and

23-00589-19

2019796\_\_

59 distribution storm protection costs, it is in the public  
60 interest that public utilities mitigate additional costs to  
61 utility customers to the extent possible.

62 (2) As used in this section, the term:

63 (a) "Commission" means the Florida Public Service  
64 Commission.

65 (b) "Public utility" or "utility" has the same meaning as  
66 in s. 366.02(1).

67 (c) "Transmission and distribution storm protection plan"  
68 means a public utility plan for the overhead hardening of  
69 electrical transmission or distribution facilities, the  
70 undergrounding of electrical distribution facilities, and  
71 increased vegetation management.

72 (d) "Transmission and distribution storm protection plan  
73 costs" means the reasonable and prudent costs of an approved  
74 transmission and distribution storm protection plan.

75 (e) "Vegetation management" means actions that a public  
76 utility takes to prevent or curtail vegetation from interfering  
77 with the utility's infrastructure, including, but not limited  
78 to, mowing the vegetation, applying herbicides, trimming trees,  
79 and removing trees or brush near electrical transmission and  
80 distribution facilities.

81 (3) (a) As part of the storm hardening plan required by  
82 commission rule, a public utility shall submit to the commission  
83 for review and approval a transmission and distribution storm  
84 protection plan. Such plans must be updated at least every 3  
85 years after the date of their initial approval and must be  
86 submitted to the commission for approval or modification.

87 (b) To maintain reasonable electric rates, a public

23-00589-19

2019796\_\_

88 utility's transmission and distribution storm protection plan  
89 may not include the undergrounding of more than 4 percent of the  
90 utility's lateral distribution lines per year.

91 (c) A public utility shall include in its transmission and  
92 distribution storm protection plan any information required by  
93 commission rule to address the electric infrastructure  
94 improvements proposed, as well as sufficient information to  
95 demonstrate that the transmission and distribution storm  
96 protection plan costs are not included in the utility's base  
97 rates, as required in paragraph (5) (c).

98 (4) The commission shall approve or modify, as appropriate,  
99 pursuant to chapter 120, the public utility's transmission and  
100 distribution storm protection plan within 6 months after the  
101 utility initially submits the plan. The commission shall  
102 consider both of the following in its approval process:

103 (a) Whether the transmission and distribution storm  
104 protection plan enhances reliability, strengthens  
105 infrastructure, and reduces restoration costs and outage times  
106 in a prudent, practical, and cost-efficient manner.

107 (b) Whether transmission and distribution storm protection  
108 of electric infrastructure is feasible, reasonable, or practical  
109 in certain areas of the public utility's service territory,  
110 including, but not limited to, flood zones and rural areas.

111 (5) (a) The commission shall conduct an annual proceeding to  
112 allow utilities the opportunity to justify and recover  
113 transmission and distribution storm protection plan costs  
114 through a storm protection cost recovery clause.

115 (b) All actions taken in the implementation of a  
116 transmission and distribution storm protection plan are

23-00589-19

2019796\_\_

117 considered prudent, but a party may challenge the prudence of  
118 the costs associated with such actions.

119 (c) The annual transmission and distribution storm  
120 protection plan costs recoverable through the storm protection  
121 cost recovery clause may not be included in the utility's base  
122 rates and must be allocated to customer classes pursuant to the  
123 rate design most recently approved by the commission.

124 (d) If the costs recoverable through a storm protection  
125 cost recovery clause are capital expenditures, a public utility  
126 may recover, through the storm protection cost recovery clause,  
127 the annual depreciation on such costs, calculated at the  
128 utility's then-current approved depreciation rates, and a return  
129 on the depreciated balance of the costs calculated at the  
130 utility's weighted average cost of capital using the return on  
131 equity last approved by the commission in a rate case or  
132 settlement order.

133 (6) (a) If the benefits of a tax reform result in a return  
134 to customers as a reduction in a utility's electric rates, the  
135 annual amounts that would otherwise have been returned to  
136 customers must be recorded in a storm protection reserve  
137 account. Such account must be used to fund the full commission-  
138 approved annual revenue requirements of the storm protection  
139 cost recovery clause.

140 (b) An actual or projected surplus in the storm protection  
141 reserve account at the end of a calendar year must be returned  
142 to customers through the storm protection cost recovery clause.  
143 If the utility projects that the balance of its storm protection  
144 reserve will be insufficient to cover the projected full revenue  
145 requirements in any calendar year, the commission must establish

23-00589-19

2019796\_\_

146 a factor that, taking into account projected sales, is intended  
147 to recover the required cumulative annual revenue for  
148 transmission and distribution storm protection costs, net of the  
149 amount funded by the storm protection reserve account. The cost-  
150 recovery factor must be based on costs incurred by, as well as  
151 projections of, the transmission and distribution storm  
152 protection plan costs for the prospective recovery period.

153 (c) The storm protection cost recovery clause cost-recovery  
154 factor must provide for periodic true-up of the utility's actual  
155 transmission and distribution storm protection plan costs  
156 relative to the projections under paragraph (b). The true-up  
157 must occur at least annually and must further require that any  
158 refund or collection made as part of the true-up process include  
159 interest based on the 30-day commercial paper rate, as specified  
160 by commission rule.

161 (7) The commission shall adopt rules to implement and  
162 administer this section.

163 Section 2. This act shall take effect July 1, 2019.