

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Appropriations Committee on Agriculture, Environment, and General Government

BILL: CS/SB 1574

INTRODUCER: Regulated Industries Committee and Senator DiCeglie

SUBJECT: Energy Infrastructure Investment

DATE: April 14, 2025

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Schrader</u>	<u>Imhof</u>	<u>RI</u>	<u>Fav/CS</u>
2.	<u>Sanders</u>	<u>Betta</u>	<u>AEG</u>	<u>Favorable</u>
3.	<u> </u>	<u> </u>	<u>FP</u>	<u> </u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1574 amends s. 366.075, F.S., relating to Florida's experimental and transitional utility rates. The bill authorizes the Florida Public Service Commission (PSC or Commission) to establish an experimental mechanism to facilitate energy infrastructure investment in renewable natural gas (RNG).

The bill does not impact state revenues and expenditures. See Section V. Fiscal Impact Statement.

The bill takes effect July 1, 2025.

II. Present Situation:

Florida Public Service Commission

The PSC is an arm of the legislative branch of government.¹ The role of the PSC is to ensure Florida's consumers receive utility services, including electric, natural gas, telephone, water, and wastewater, in a safe and reliable manner and at fair prices.² In order to do so, the PSC exercises

¹ Section 350.001, F.S.

² See Florida Public Service Commission, *Florida Public Service Commission Homepage*, <http://www.psc.state.fl.us> (last visited April 8, 2025).

authority over utilities in one or more of the following areas: rate base or economic regulation; competitive market oversight; and monitoring of safety, reliability, and service issues.³

Electric and Gas Utilities

The PSC monitors the safety and reliability of the electric power grid⁴ and may order the addition or repair of infrastructure as necessary.⁵ The PSC has broad jurisdiction over the rates and service of investor-owned electric and gas utilities⁶ (called “public utilities” under ch. 366, F.S.).⁷ However, the PSC does not fully regulate municipal electric utilities (utilities owned or operated on behalf of a municipality) or rural electric cooperatives. The PSC does have jurisdiction over these types of utilities with regard to rate structure, territorial boundaries, and bulk power supply operations and planning.⁸ Municipally-owned utility rates and revenues are regulated by their respective local governments or local utility boards. Rates and revenues for a cooperative utility are regulated by its governing body elected by the cooperative’s membership.

PSC Setting of Public Utility Rates and Other Charges

Section 366.041, F.S., establishes the considerations the PSC must apply in fixing just, reasonable, and compensatory rates:

the [PSC] is authorized to give consideration, among other things, to the efficiency, sufficiency, and adequacy of the facilities provided and the services rendered; the cost of providing such service and the value of such service to the public; the ability of the utility to improve such service and facilities; and energy conservation and the efficient use of alternative energy resources; provided that no public utility shall be denied a reasonable rate of return upon its rate base

Section 366.06, F.S., establishes the PSC’s authority to establish and implement procedures for the fixing of and changing public utility rates. Under this section, all applications made by public utilities for changes in rates must be in writing with the PSC under the PSC’s established rules and regulations.⁹ Section 366.06(2), F.S., requires the PSC to hold a public hearing whenever it finds, upon request made, or upon its own motion, one or more of the following:

- That the rates demanded, charged, or collected by any public utility for public utility service, or that the rules, regulations, or practices of any public utility affecting such rates, are unjust, unreasonable, unjustly discriminatory, or in violation of law;
- That such rates are insufficient to yield reasonable compensation for the services rendered;
- That such rates yield excessive compensation for services rendered; or
- That such service is inadequate or cannot be obtained.

³ Florida Public Service Commission, *About the PSC*, <https://www.psc.state.fl.us/about> (last visited April 8, 2025).

⁴ Section 366.04(5) and (6), F.S.

⁵ Section 366.05(1) and (8), F.S.

⁶ Section 366.05, F.S.

⁷ Section 366.02(8), F.S.

⁸ Florida Public Service Commission, *About the PSC*, <https://www.psc.state.fl.us/about> (last visited April 8, 2025).

⁹ Section 366.06(1), F.S.

During such a hearing, the PSC must determine just and reasonable rates to be thereafter charged for such service, and promulgate rules and regulations affecting equipment, facilities, and service to be thereafter installed, furnished, and used.

The PSC establishes separate rates and charges for various components of a public utility's cost of providing service to its customers. These are established through various proceedings which include:

- Base rate proceedings (also known as rate cases);
- Cost recovery clauses;
- Infrastructure surcharges;
- Interim charges.¹⁰

Experimental and Transitional Rates

Section 366.075, F.S., authorizes the PSC to approve experimental or transitional rates for the purpose of encouraging energy conservation or efficiency. This provision is used by the PSC to allow electric and natural gas utilities under its rate-regulatory jurisdiction to conduct limited scope pilot programs.

Such rates must be limited in geographic area and be for a limited period of time. The PSC may approve the area used in testing experimental rates and must specify in the order setting those rates the area that will be affected by those rates. The PSC can extend this time period “if it determines that further testing is necessary to fully evaluate the effectiveness of such experimental rates.”

Renewable Energy

Section 366.91, F.S., establishes a number of renewable policies for the state. The purpose of these policies, as established in this section, states it is in the public interest to promote the development of renewable energy resources in this state.¹¹ Further, the statute is intended to encourage fuel diversification to meet Florida's growing dependency on natural gas for electric production, minimize the volatility of fuel costs, encourage investment within the state, improve environmental conditions, and make Florida a leader in new and innovative technologies.¹²

The section defines “renewable energy” as:

[E]lectrical energy produced from a method that uses one or more of the following fuels or energy sources: hydrogen produced or resulting from sources other than fossil fuels, biomass, solar energy, geothermal energy, wind energy, ocean energy, and hydroelectric power. The term includes the alternative energy resource, waste heat, from sulfuric acid manufacturing operations and electrical energy produced using pipeline-

¹⁰ Florida Public Service Commission, *2025 Agency Legislative Bill Analysis for SB 354*, (Feb. 28, 2025) (on file with Senate Committee on Regulated Industries).

¹¹ Section 366.91(1), F.S.

¹² *Id.*

quality synthetic gas produced from waste petroleum coke with carbon capture and sequestration.¹³

Renewable Natural Gas

Natural gas is a fossil energy source which forms beneath the earth's surface. Natural gas contains many different compounds, the largest of which is methane. Conventional natural gas is primarily extracted from subsurface porous rock reservoirs via gas and oil well drilling and hydraulic fracturing, commonly referred to as "fracking."¹⁴ RNG refers to biogas that has been upgraded to use in place of fossil fuel natural gas (i.e. conventional natural gas).¹⁵

Section 366.91, F.S., identifies sources for producing RNG as a potential source of renewable energy.¹⁶ The section specifically defines renewable natural gas as anaerobically generated biogas,¹⁷ landfill gas, or wastewater treatment gas refined to a methane content of 90 percent or greater. Under the definition, such gas may be used as a transportation fuel or for electric generation, or is of a quality capable of being injected into a natural gas pipeline.

Biogas used to produce RNG comes from various sources, including municipal solid waste landfills, digesters at water resource recovery facilities, livestock farms, food production facilities, and organic waste management operations.¹⁸ Raw biogas has a methane content between 45 and 65 percent.¹⁹ Once biogas is captured, it is treated in a process called conditioning or upgrading, which involves the removal of water, carbon dioxide, hydrogen sulfide, and other trace elements. After this process, the nitrogen and oxygen content is reduced and the RNG has a methane content comparable to natural gas and is thus a suitable energy source in applications that require pipeline-quality gas, such as vehicle applications.²⁰

RNG that meets certain standards qualifies as an advanced biofuel under the Federal Renewable Fuel Standard Program.²¹ This program was enacted by the United States Congress in order to

¹³ Section 366.91(2)(e), F.S.

¹⁴ United States Energy Information Administration, *Natural gas explained* (Oct. 10, 2024), <https://www.eia.gov/energyexplained/natural-gas/> (last visited April 8, 2025).

¹⁵ Environmental Protection Agency, *Landfill Methane Outreach Program (LMOP): Renewable Natural Gas*, <https://www.epa.gov/lmop/renewable-natural-gas> (last visited April 8, 2025).

¹⁶ Section 366.91(2)(e), F.S., defines "renewable energy," in part, as energy produced from biomass.

Section 366.91(2)(b), F.S., defines "biomass" in part, as "a power source that is comprised of, but not limited to, combustible residues or gases from...waste, byproducts, or products from agricultural and orchard crops, waste or coproducts from livestock and poultry operations, waste or byproducts from food processing, urban wood waste, municipal solid waste, municipal liquid waste treatment operations, and landfill gas." RNG would be such a combustible gas.

¹⁷ Section 366.91(2)(a) defines "biogas" as a mixture of gases produced by the biological decomposition of organic materials which is largely comprised of carbon dioxide, hydrocarbons, and methane gas.

¹⁸ Environmental Protection Agency, *supra* note 15.

¹⁹ *Id.*

²⁰ United States Department of Energy, *Renewable Natural Gas Production*, https://afdc.energy.gov/fuels/natural_gas_renewable.html (last visited April 8, 2025).

²¹ United States Department of Energy, *Renewable Fuel Standard*, [https://afdc.energy.gov/laws/RFS#:~:text=The%20Renewable%20Fuel%20Standard%20\(RFS,Act%20of%202007%20\(EIS A\)](https://afdc.energy.gov/laws/RFS#:~:text=The%20Renewable%20Fuel%20Standard%20(RFS,Act%20of%202007%20(EIS A)) (last visited April 8, 2025).

reduce greenhouse gas emissions by reducing reliance on imported oil and expanding the nation's renewable fuels sector.²²

Nationally as of September 2023, there were 580 landfill gas facilities in operation and 530 anaerobic digester systems operating at commercial livestock farms in the United States.²³ Of the more than 16,000 wastewater treatment plants in operation in the United States, approximately 1,200 have anaerobic digesters on site, and 860 of those have the equipment to use their biogas on site.²⁴

Florida Power and Light (FPL) Woodford Decision

In *Citizens of State v. Graham*, 191 So. 3d 897 (Fla. 2016), the Florida Supreme Court found the PSC lacked statutory authority to approve cost recovery for FPL investment in a natural gas production facility in the Woodford Shale Gas Region in Oklahoma (Woodford Project). The Woodford Project involved exploration and production of natural gas and not the purchase of actual fuel—something that would generally be within the types of activities an electric utility would engage in. The Supreme Court cited to s. 366.02(2), F.S. (2014), which defines an “electric utility” as “any municipal electric utility, investor-owned electric utility, or rural electric cooperative which owns, maintains, or operates an electric generation, transmission, or distribution system within the state,” and found that the Woodford Project activities did not fall within this definition.²⁵

However, in making its decision, the Supreme Court noted the following:

This may be a good idea, but whether advance cost recovery of speculative capital investments in gas exploration and production by an electric utility is in the public interest is a policy determination that must be made by the Legislature. For example, in contrast to natural gas exploration and production, the Legislature has authorized the PSC to approve cost recovery for capital investments in nuclear power plants and energy efficient and renewable energy power sources. See ss. 366.8255; 366.92; 366.93, Fla. Stat. (2014). Without statutory authorization from the Legislature, the recovery of FPL's costs and capital investment in the Woodford Project through the fuel clause is overreach.²⁶

Thus, while the Supreme Court determined that the PSC could not approve cost recovery for capital electric utility investments in natural gas production, it indicated that the Legislature has the authority to allow for such if it chose to do so.²⁷

²² Environmental Protection Agency, *Renewable Fuel Standard Program*, <https://www.epa.gov/renewable-fuel-standard-program> (last visited April 8, 2025).

²³ United States Department of Energy, *Renewable Natural Gas Production*, https://afdc.energy.gov/fuels/natural_gas_renewable.html (last visited April 8, 2025) and American Biogas Council, *Biogas Market Snapshot*, <https://americanbiogascouncil.org/biogas-market-snapshot/> (last visited April 8, 2025).

²⁴ *Id.*

²⁵ *Citizens of State v. Graham*, 191 So. 3d 897, 901-2 (Fla. 2016).

²⁶ *Id.* at 902.

²⁷ Florida Public Service Commission, *Bill Analysis for SB 1162* (Mar. 14, 2023) (on file with the Senate Committee on Regulated Industries).

Biogas in Florida

According to the American Biogas Council, Florida has 70 operational biogas systems:

- 40 wastewater systems;
- 21 landfills;
- Five food waste systems; and
- Four manure processing locations.²⁸

Recovery of Natural Gas Facilities Relocation Costs

Created in 2024 (chapter 2024-186, Laws of Florida), s. 366.99, F.S., authorizes natural gas public utilities to petition the PSC to annually recover prudently incurred natural gas facilities relocation costs to accommodate requirements imposed by the Florida Department of Transportation (FDOT) and local government entities. The section allows each utility to recover such costs through a charge separate and apart from base rates, referred to in the section as the natural gas facilities relocation cost recovery clause.

The section directs the PSC to establish an annual proceeding to review these petitions. This review is limited to:

- Determining the prudence of the utility's actual incurred natural gas facilities relocation costs;
- Determining the reasonableness of the utility's projected natural gas facilities relocation costs for the next calendar year; and
- Providing for a true-up of the costs with the projections on which past factors were set.

Any refund or collection made pursuant to the true-up process must include applicable interest.

The section also requires all costs approved pursuant to this clause be allocated to customer classes pursuant to the rate design most recently approved by the PSC. If a capital expenditure is recoverable as a natural gas facilities relocation cost, the public utility may recover the annual depreciation on the cost, calculated at the public utility's current approved depreciation rates, and a return on the undepreciated balance of the costs at the public utility's weighted average cost of capital using the last approved return on equity.

The section directs the PSC to adopt rules to implement the section as soon as practicable.

III. Effect of Proposed Changes:

Section 1 amends s. 366.075, F.S., to authorize the PSC to establish an experimental mechanism to facilitate energy infrastructure investment in gas using the administrative proceeding structure created for natural gas facilities relocation cost recovery in s. 366.99, (2) through (6), F.S. As used in the section, "gas" means anaerobically generated biogas, landfill gas, or wastewater treatment gas refined to a methane content of 90 percent or greater which may be used as a transportation fuel or for pipeline distribution.

²⁸ American Biogas Council, *Biogas State Profiles*, <https://americanbiogascouncil.org/resources/state-profiles/florida/> (last visited April 8, 2025).

In establishing this mechanism, the PSC is to consider the intent provided in s. 366.91(1), F.S., for renewable energy.²⁹ The gas infrastructure investment may include only such investments that collect, prepare, clean, process, transport, or inject gas as a transportation fuel or for pipeline distribution.

The section also requires the PSC to propose a rule for adoption as soon as practicable, but not later than January 1, 2026.

Section 2 provides an effective date of July 1, 2025.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Public utilities will likely expand their use and sale of RNG, the costs of which will be authorized to be passed through to the utilities' customers. In addition, if the production of RNG increases in response to the experimental mechanism authorized in the bill,

²⁹ Section 366.91(1), F.S., provides that the "Legislature finds that it is in the public interest to promote the development of renewable energy resources in this state. Renewable energy resources have the potential to help diversify fuel types to meet Florida's growing dependency on natural gas for electric production, minimize the volatility of fuel costs, encourage investment within the state, improve environmental conditions, and make Florida a leader in new and innovative technologies."

operators of farming operations that have the potential to generate RNG may see a revenue increase as a result of increased RNG capture and production.

C. Government Sector Impact:

The bill does not impact state revenues and expenditures. The bill requires the PSC to adopt rules and expands the responsibilities of the PSC. Any such expenses will be absorbed within existing resources.³⁰

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 366.075 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Regulated Industries on April 1, 2025:

The committee substitute revises the recovery mechanism structure for the energy infrastructure investments specified in the bill. Specifically, the amendment replaces the storm protection plans and cost recovery (ss. 366.96, (7) and (8), F.S.) mechanism with that used for natural gas relocation facilities costs (ss. 366.99(2) through (6), F.S.).

The committee substitute also makes a conforming change to delete a provision that the PSC has the discretion to determine whether to use an annual proceeding to conduct such an experimental mechanism. Section 366.99(2) through (6), F.S., already specifies annual proceedings for that mechanism).³¹

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

³⁰ Florida Public Service Commission, *Bill Analysis for Senate Bill 1574* (April 1, 2025) (on file with the Senate Appropriations Committee on Agriculture, Environment and General Government).

³¹ *Id.*