

By the Committee on Regulated Industries; and Senators Gaetz and Bradley

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A bill to be entitled

An act relating to the Florida Public Service Commission; amending s. 350.01, F.S.; revising the membership of the Florida Public Service Commission; creating s. 350.0615, F.S.; requiring a group of parties to certain proceedings to negotiate the terms of a settlement with the Public Counsel before presenting such settlement to the commission; creating s. 350.129, F.S.; requiring that orders issued by the commission contain adequate support and rationale for any conclusions made by the commission; requiring the commission to provide an explanation and a discussion of major elements and the rationale of the settlement when the commission issues an order accepting or denying certain settlement agreements; providing that the Public Counsel is not a required party to any such settlements; prohibiting the commission from approving certain settlements that are not negotiated with the Public Counsel; creating s. 350.130, F.S.; authorizing certain persons to make a motion to intervene in a pending commission proceeding; providing requirements for an association's motion to intervene in certain commission proceedings; requiring the commission to make certain rulings in a specified timeframe to avoid certain expenses; creating s. 350.131, F.S.; requiring the commission to consider and address the affordability of proceedings that have certain potential impacts; amending s. 366.06, F.S.; authorizing the commission to fix affordable, in

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addition to fair, just, and reasonable, rates;
requiring that certain applications for changes in
rates be made according to a certain schedule and
procedure; requiring that certain requests for a
change in return on equity be made according to a
certain schedule and procedure; conforming provisions
to changes made by the act; providing requirements for
any financial model used by the commission to set and
evaluate the return on equity for a public utility;
requiring the commission to consider and address
certain financial benefits and reductions of certain
risks provided by specified cost financing systems or
other processes when setting and evaluating the return
on equity for a public utility; amending s. 366.07,
F.S.; conforming provisions to changes made by the
act; requiring the commission to establish a schedule
by which requests for changes to a public utility's
return on equity may be submitted to the commission by
each public utility company; prohibiting the
commission from accepting certain requests from a
public utility to modify its return on equity outside
of its schedule; providing an exception; authorizing a
public utility to petition the commission to deviate
from the return on equity revision schedule; requiring
the commission to grant the petition under certain
circumstances; requiring the commission to adopt
rules; creating s. 366.077, F.S.; requiring the
commission to provide a report to the Governor and the
Legislature by a specified date annually; providing

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requirements for the report; creating s. 366.8261, F.S.; defining terms; requiring the commission to permit an electric utility to implement a certain charge within a specified timeframe after the electric utility files a certain petition, subject to specified conditions; requiring the commission to establish a recovery period for interim storm-recovery costs, based upon a reasonable balancing of certain factors; subjecting certain funds to true-up; providing construction; requiring the commission to adopt rules; amending s. 367.081, F.S.; providing requirements for financial models used by the commission in setting and evaluating the return on equity for a utility; conforming provisions to changes made by the act; amending s. 377.814, F.S.; conforming a cross-reference; providing an effective date.

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

Section 1. Subsection (1) of section 350.01, Florida Statutes, is amended to read:

350.01 Florida Public Service Commission; terms of commissioners; vacancies; election and duties of chair; quorum; proceedings; public records and public meetings exemptions.—

(1) The Florida Public Service Commission shall be composed ~~consist~~ of seven ~~five~~ commissioners appointed pursuant to s. 350.031. One member must be a certified public accountant, and one member must be a chartered financial analyst.

Section 2. Section 350.0615, Florida Statutes, is created

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88 to read:

89 350.0615 Public Counsel; requirement to negotiate.—For
90 proceedings before the commission in which the Public Counsel is
91 participating as a party, any other group of parties to the
92 proceeding, before presenting a settlement of the proceeding to
93 the commission, must negotiate in good faith with the Public
94 Counsel the terms of such settlement.

95 Section 3. Section 350.129, Florida Statutes, is created to
96 read:

97 350.129 Orders of the Florida Public Service Commission.—
98 (1) All orders issued by the commission must contain
99 adequate support and rationale for the commission's conclusions,
100 including the specific facts and factors on which the
101 conclusions are based. While the commission may make conclusions
102 based upon the public interest, it shall specify in its orders a
103 rationale for such conclusions.

104 (2) For commission orders that affect substantial interests
105 pursuant to s. 120.569, when issuing an order accepting or
106 denying a settlement agreement reached by any of the parties to
107 a proceeding, all of the following requirements apply:

108 (a) The commission shall provide a reasoned explanation,
109 citing the specific facts and factors on which it relied. The
110 commission shall provide in its order a discussion of the major
111 elements of the settlement and a rationale for its conclusions.

112 (b) The Public Counsel is not a required party to such a
113 settlement. However, the commission may not approve a settlement
114 presented by parties that have not negotiated the terms of such
115 settlement in good faith with the Public Counsel.

116 Section 4. Section 350.130, Florida Statutes, is created to

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117 read:

118 350.130 Intervention into commission proceedings.—Persons
119 other than the original parties to a pending commission
120 proceeding, whose substantial interest will be affected by the
121 commission proceeding and who desire to become parties to the
122 proceeding, may make a motion to the commission for leave to
123 intervene in the proceeding pursuant to chapter 120.

124 (1) Any trade, professional, or similar association seeking
125 to intervene in a commission proceeding on the basis of the
126 impact of such proceeding on the association's membership must
127 include in such motion the nature of the association's
128 membership, the manner in which such membership will be
129 substantially impacted by the proceeding, and the number and
130 percentage of total members who will be substantially impacted
131 by the proceeding.

132 (2) In order to avoid any unnecessary rate case expense
133 resulting from a party participating in a proceeding in which it
134 does not have standing, the commission shall rule on any
135 challenge to a party's intervention in a proceeding on the basis
136 of standing on a timely basis and, at a minimum, within 30 days
137 after receiving such challenge.

138 Section 5. Section 350.131, Florida Statutes, is created to
139 read:

140 350.131 Affordability.—The commission must consider and
141 address affordability in any proceeding before it that has the
142 potential to impact utility rates.

143 Section 6. Present subsection (4) of section 366.06,
144 Florida Statutes, is redesignated as subsection (5), a new
145 subsection (4) is added to that section, and subsections (1) and

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(2) of that section are amended, to read:

366.06 Rates; procedure for fixing and changing.—

(1) A public utility shall not, directly or indirectly, charge or receive any rate not on file with the commission for the particular class of service involved, and no change shall be made in any schedule. All applications for changes in rates shall be made to the commission in writing under rules and regulations prescribed, and the commission shall have the authority to determine and fix affordable, fair, just, and reasonable rates that may be requested, demanded, charged, or collected by any public utility for its service. Any application for a change in rates which also includes a request for a change in return on equity must be made according to the schedule and procedure established by the commission pursuant to s. 366.07.

The commission shall investigate and determine the actual legitimate costs of the property of each utility company, actually used and useful in the public service, and shall keep a current record of the net investment of each public utility company in such property which value, as determined by the commission, shall be used for ratemaking purposes and shall be the money honestly and prudently invested by the public utility company in such property used and useful in serving the public, less accrued depreciation, and shall not include any goodwill or going-concern value or franchise value in excess of payment made therefor. In fixing affordable, fair, just, and reasonable rates for each customer class, the commission shall, to the extent practicable, consider the cost of providing service to the class, as well as the rate history, value of service, and experience of the public utility; the consumption and load

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characteristics of the various classes of customers; and public acceptance of rate structures.

(2) Whenever the commission finds, upon request made or upon its own motion, 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 unaffordable, 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, the commission shall order and hold a public hearing, giving notice to the public and to the public utility, and shall thereafter determine affordable, 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. Any request made by a public utility pursuant to this section which involves a request for a change in return on equity must be made according to the schedule and procedure established by the commission pursuant to s. 366.07.

(4) In setting and evaluating the return on equity for a public utility as part of a rate proceeding:

(a) Any financial model used by the commission must be:

1. Financially logical; and

2. Generally used and accepted by finance practitioners both within and outside of the regulated utility industry; and

(b) The commission shall specifically consider and address the financial benefits and the reduction in regulatory, weather,

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disaster, and general financial risk to the public utility
provided by all of the following which are relevant to the
public utility:

1. Environmental cost recovery under s. 366.8255.
2. Storm-recovery financing under s. 366.8260.
3. Interim storm-recovery cost recovery under s. 366.8261.
4. Cost recovery for the siting, design, licensing, and
construction of nuclear and integrated gasification combined
cycle power plants under s. 366.93.
5. Financing for certain nuclear generating asset
retirement or abandonment costs under s. 366.95.
6. Storm protection plan cost recovery under s. 366.96.
7. Public utility liability arising out of emergencies and
disasters under s. 366.98.
8. Natural gas facilities relocation costs under s. 366.99.

Section 7. Section 366.07, Florida Statutes, is amended to
read:

366.07 Rates; adjustment.—

(1) Whenever the commission, after public hearing either
upon its own motion or upon complaint, shall find the rates,
rentals, charges or classifications, or any of them, proposed,
demanded, observed, charged or collected by any public utility
for any service, or in connection therewith, or the rules,
regulations, measurements, practices or contracts, or any of
them, relating thereto, are unaffordable, unjust, unreasonable,
insufficient, excessive, or unjustly discriminatory or
preferential, or in anywise in violation of law, or any service
is inadequate or cannot be obtained, the commission shall
determine and by order fix the affordable, fair, and reasonable

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rates, rentals, charges or classifications, and reasonable rules, regulations, measurements, practices, contracts or service, to be imposed, observed, furnished or followed in the future.

(2) The commission shall establish a schedule by which requests for changes to a public utility's return on equity may be submitted to the commission by each public utility. The commission may not accept a request from a public utility to modify its return on equity outside of this established schedule, except as provided in subsection (3).

(3) A public utility may petition the commission to deviate from the return on equity revision schedule established by the commission under subsection (2). The commission shall grant such petition if:

(a) The public utility's rates are insufficient to yield reasonable compensation for the services it is rendering;

(b) This insufficiency is due to circumstances that are outside of the control of the public utility; and

(c) Such circumstances were not reasonably foreseeable by the public utility during the last proceeding in which its return on equity was approved by the commission.

(4) The commission shall adopt rules to implement this section.

Section 8. Section 366.077, Florida Statutes, is created to read:

366.077 Report on rates.—The commission shall submit an annual report to the Governor and the Legislature by March 1.

(1) The report must include all of the following:

(a) An investigation of contemporary economic analyses

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related to rate changes in this state.

(b) An analysis of potential cost impacts to utility customers in this state if excess returns on equity have occurred and, if such excess returns have not occurred at a significant rate, any resulting cost savings to such customers.

(c) An analysis of returns on equity models presented by public utilities and used by the commission to determine approved returns on equity for public utilities in this state. Such analysis must:

1. Compare models used by federal agencies and other state utility regulatory bodies with those used by the commission;

2. Determine whether the models used are generally financially logical; and

3. Determine whether the models used comport with generally accepted economic theory both inside and outside of the utility industry.

(d) An assessment of long-term impacts, including the economic repercussions of rising rates of returns on equity, to utilities and their future customers.

(e) A summary providing detailed information regarding the compensation of the executive officers of each public utility providing service to the residents of this state, or the executive officers of a public utility's affiliated companies or parent company. Such information must include, but need not be limited to, salaries, benefits, stock options, bonuses, stock buybacks, and other taxable payments, expressed both as dollar amounts and as a percentage of the entity's total revenue. The summary must include the profits and losses of each entity as reported in its financial statements and highlight any

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291 compensation that exceeds the industry average. The commission
292 shall also include any rationale provided by a public utility
293 justifying compensation exceeding the industry average and, for
294 each public utility, an explanation as to the manner in which
295 specific data gathered during the compiling of information
296 informed the commission's decisions on the public utility's rate
297 change requests.

298 (2) The report must provide benchmarking, comparing public
299 utilities providing service to the residents of this state with
300 public utilities providing service to the residents of other
301 states, and include commentary on all findings.

302 Section 9. Section 366.8261, Florida Statutes, is created
303 to read:

304 366.8261 Interim storm-recovery cost.—

305 (1) As used in this section, the term:

306 (a) "Electric utility" has the same meaning as in s.
307 366.8255.

308 (b) "Storm" has the same meaning as in s. 366.8260.

309 (c) "Storm-recovery charge" has the same meaning as in s.
310 366.8260.

311 (d) "Storm-recovery costs" has the same meaning as in s.
312 366.8260.

313 (2) The commission shall permit an electric utility to
314 implement a storm-recovery charge to recover reasonably
315 estimated storm-recovery costs within 60 days after filing a
316 petition with the commission for the recovery from one or more
317 storms, subject to all of the following conditions:

318 (a) Such charge must be on an interim basis. The
319 commission's approval of interim storm-recovery costs and a

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related storm-recovery charge must be on a preliminary basis and is subject to refund pending further review once the total actual storm-recovery costs are known. After the actual costs are reviewed for prudence and reasonableness and are compared to the actual amount recovered through the interim storm-recovery charge, the commission shall determine whether any over or under recovery has occurred. The disposition of any over or under recovery, and associated interest, must be considered by the commission at a separate true-up proceeding.

(b) Storm-recovery costs may not include any expenses already being recovered by the utility in its base rates.

(c) The commission may require a utility to secure funds collected pursuant to this section to ensure timely refund to customers in the event of over recovery.

(3) In approving an application for interim storm-recovery costs pursuant to subsection (2), the commission shall also establish a recovery period for such interim costs. This recovery period shall be based upon a reasonable balancing of all of the following factors:

(a) The financial impact of the length of the recovery period on the utility.

(b) Timeliness of recovery.

(c) Affordability to ratepayers.

(d) Avoiding sudden substantial bill increases to ratepayers.

(4) Funds collected pursuant to this section are subject to true-up. The commission shall require that any refund to or additional collection from ratepayers made as a part of the true-up include interest.

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349 (5) Nothing in this section shall be construed to prevent a
350 public utility from applying for, or the commission approving,
351 storm-recovery financing pursuant to s. 366.8260.

352 (6) The commission shall adopt rules to implement this
353 section as soon as practicable, but no later than January 1,
354 2027.

355 Section 10. Paragraph (a) of subsection (2) and subsection
356 (3) of section 367.081, Florida Statutes, are amended to read:

357 367.081 Rates; procedure for fixing and changing.—

358 (2)(a)1. The commission shall, either upon request or upon
359 its own motion, fix rates which are affordable, just,
360 reasonable, compensatory, and not unfairly discriminatory. In
361 every such proceeding, the commission shall consider the value
362 and quality of the service and the cost of providing the
363 service, which shall include, but not be limited to, debt
364 interest; the requirements of the utility for working capital;
365 maintenance, depreciation, tax, and operating expenses incurred
366 in the operation of all property used and useful in the public
367 service; and a fair return on the investment of the utility in
368 property used and useful in the public service. However, the
369 commission shall not allow the inclusion of contributions-in-
370 aid-of-construction in the rate base of any utility during a
371 rate proceeding, nor shall the commission impute prospective
372 future contributions-in-aid-of-construction against the
373 utility's investment in property used and useful in the public
374 service; and accumulated depreciation on such contributions-in-
375 aid-of-construction shall not be used to reduce the rate base,
376 nor shall depreciation on such contributed assets be considered
377 a cost of providing utility service.

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378 2. For purposes of such proceedings, the commission shall
379 consider utility property, including land acquired or facilities
380 constructed or to be constructed within a reasonable time in the
381 future, not to exceed 24 months after the end of the historic
382 base year used to set final rates unless a longer period is
383 approved by the commission, to be used and useful in the public
384 service, if:

385 a. Such property is needed to serve current customers;

386 b. Such property is needed to serve customers 5 years after
387 the end of the test year used in the commission's final order on
388 a rate request as provided in subsection (6) at a growth rate
389 for equivalent residential connections not to exceed 5 percent
390 per year; or

391 c. Such property is needed to serve customers more than 5
392 full years after the end of the test year used in the
393 commission's final order on a rate request as provided in
394 subsection (6) only to the extent that the utility presents
395 clear and convincing evidence to justify such consideration.

396
397 Notwithstanding the provisions of this paragraph, the commission
398 shall approve rates for service which allow a utility to recover
399 from customers the full amount of environmental compliance
400 costs. Such rates may not include charges for allowances for
401 funds prudently invested or similar charges. For purposes of
402 this requirement, the term "environmental compliance costs"
403 includes all reasonable expenses and fair return on any prudent
404 investment incurred by a utility in complying with the
405 requirements or conditions contained in any permitting,
406 enforcement, or similar decisions of the United States

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Environmental Protection Agency, the Department of Environmental Protection, a water management district, or any other governmental entity with similar regulatory jurisdiction.

(3) The commission, in fixing rates, may determine the prudent cost of providing service during the period of time the rates will be in effect following the entry of a final order relating to the rate request of the utility and may use such costs to determine the revenue requirements that will allow the utility to earn a fair rate of return on its rate base. Any financial model used by the commission in setting and evaluating the return on equity for a utility as part of a proceeding fixing rates must be:

(a) Financially logical; and

(b) Generally used and accepted by finance practitioners both within and outside of the regulated utility industry.

Section 11. Paragraph (b) of subsection (5) of section 377.814, Florida Statutes, is amended to read:

377.814 Municipal Solid Waste-to-Energy Program.—

(5) FUNDING.—

(b) Funds awarded under the grant programs set forth in this section may not be used to support, subsidize, or enable the sale of electric power generated by a municipal solid waste-to-energy facility to any small electric utility eligible to petition the commission under s. 366.06(5) ~~s. 366.06(4)~~.

Section 12. This act shall take effect July 1, 2026.