



Energy & Utilities Subcommittee

Thursday, April 11, 2013

8:00 AM

Webster Hall (212 Knott)

REVISED

Will Weatherford
Speaker

Jose Diaz
Chair



The Florida House of Representatives

Regulatory Affairs Committee

Energy & Utilities Subcommittee

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AGENDA

April 11, 2013

8:00 a.m. – 10:00 a.m.

212 Knott Building (Webster Hall)

Opening Remarks by Chair Diaz

Consideration of the following Proposed Committee Bill:

PCB EUS 13-01

Cost Recovery for Nuclear and Integrated Gasification Combined Cycle Power Plants

Closing Remarks by Chair Diaz

Adjournment

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB EUS 13-01 Cost recovery for nuclear and integrated gasification combined cycle power plants

SPONSOR(S): Energy & Utilities Subcommittee

TIED BILLS: IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Energy & Utilities Subcommittee		Keating <i>CK</i>	Collins <i>BC</i>

SUMMARY ANALYSIS

Section 366.93, F.S., requires the Public Service Commission (PSC) to establish, by rule, alternative mechanisms for the recovery of costs incurred in the siting, design, licensing, and construction of nuclear power plants and integrated gasification combined cycle power plants. The law states that these mechanisms must be designed to promote utility investment in nuclear and integrated gasification combined cycle power plants. Specifically, the law requires that these mechanisms provide for recovery of preconstruction costs (e.g., costs of design, siting, licensing, and site clearing) and carrying costs on the utility's construction cost balance (i.e., financing costs for the plant) as they are incurred.

A utility may petition for recovery of these costs through its rates only after the PSC has granted a determination of need for the proposed power plant. The law also provides that carrying costs for projects submitted for PSC review on or before December 31, 2010, shall be equal to the utility's pretax allowance for funds during construction (AFUDC) rate in effect in 2006. These provisions are commonly referred to as "advanced cost recovery."

The bill amends the advanced cost recovery provisions of section 366.93, F.S. Specifically, the bill:

- Provides that recoverable carrying costs on the construction costs associated with a nuclear power project must be calculated based on the utility's PSC-approved AFUDC rate.
- Provides that the PSC may approve recovery for costs incurred after final NRC licensure of a nuclear power plant only upon finding that construction of the plant will continue to provide the most cost-effective source of power for the utility, taking into account whether the plant provides needed base-load capacity for the utility, improves the balance of fuel diversity, and enhances the long-term stability and reliability of the electric grid.
- Limits the availability of advanced cost recovery through no later than December 31, 2025.
- Precludes new power plants from being eligible for advanced cost recovery.

The bill does not appear to have a fiscal impact on state or local governments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Florida's Advanced Cost Recovery Law

On May 5, 2006, the Legislature passed SB 888, a comprehensive energy package that was signed into law by Governor Jeb Bush on June 19, 2006.¹ Among other things, the bill included provisions designed to encourage the development of new nuclear power generation in Florida.

At that time, a number of circumstances created an incentive for the policy decision to encourage new nuclear power resources. These circumstances included:

- Growing statewide demand for electrical power;
- High and volatile natural gas costs;
- Vulnerability to natural gas supply disruptions, such as those that resulted from the 2004 and 2005 tropical storm seasons;
- The expectation of new costs associated with carbon emissions; and
- Uncertainties about the economic and regulatory feasibility of constructing new coal-fired power plants.²

There were uncertainties, however, associated with the development of nuclear resources. First, though fuel costs for nuclear power plants are lower than those of traditional fossil-fueled plants, nuclear plants require a higher capital investment than fossil-fueled plants. Second, nuclear power plants require a substantial lead time to license and construct. Adding to this uncertainty, the U.S. Nuclear Regulatory Commission (NRC) had not reviewed or granted a construction and operating license for any new nuclear plant in Florida in almost 30 years.

SB 888 addressed these regulatory and financial uncertainties. As codified in section 366.93, F.S., the law requires the Public Service Commission (PSC) to establish, by rule, alternative mechanisms for the recovery of costs incurred in the siting, design, licensing, and construction of a nuclear power plant. The law states that the mechanisms established by the PSC must be "designed to promote utility investment in nuclear power plants." Specifically, the law requires that these mechanisms provide for recovery of "preconstruction costs"³ and "carrying costs on the utility's projected construction cost balance associated with the nuclear power plant."⁴ A utility may petition for recovery of these costs through its capacity cost recovery charges – a component of each utility's total rate that is set by the PSC at least once a year – only after the PSC has granted a determination of need for the proposed nuclear power plant.⁵ To "encourage investment and provide certainty," the law provides that carrying costs for projects submitted for PSC review on or before December 31, 2010, shall be equal to the

¹ Section 44, Chapter 2006-230, Laws of Florida.

² See, generally, Statement of Alex Glenn, State President, Progress Energy Florida, before the Florida House of Representatives Energy & Utilities Subcommittee (March 27, 2013).

³ "Preconstruction" is defined in s. 366.93(1)(f), F.S., as "that period of time after a site . . . has been selected through and including the date the utility completes site clearing work." "Cost" is defined in s. 366.93(1)(a), F.S., as including, but not limited to, "all capital investments, including rate of return, any applicable taxes, and all expenses, including operation and maintenance expenses, related to or resulting from the siting, licensing, design, construction, or operation of the nuclear power plant, including new, expanded, or relocated electrical transmission lines or facilities of any size that are necessary thereto, or of the integrated gasification combined cycle power plant."

⁴ Section 366.93(2), F.S.

⁵ Section 366.93(3), F.S.

utility's pretax allowance for funds during construction (AFUDC) rate in effect when SB 888 became law.⁶ These provisions are commonly referred to as "advanced cost recovery."

In addition, the law provides that, until a nuclear power plant becomes commercially operational, the utility must report annually to the PSC its budgeted and actual costs for the plant as compared to the estimated cost of the plant as presented in the determination of need proceeding.⁷ If the utility elects not to complete the plant or is precluded from completing the plant, the law provides that the utility shall be allowed to recover all prudent preconstruction and construction costs incurred following the PSC's issuance of a final order granting a determination of need for the plant.⁸ The law allows the utility to recover these costs through its capacity cost recovery charges over a period equal to the period during which the costs were incurred or 5 years, whichever is greater.⁹ When the plant is placed into commercial service, the utility may increase its base rate charges by the projected annual revenue requirements of the plant.¹⁰

Under the advanced cost recovery mechanism, a utility is permitted to recover some of the costs associated with a new nuclear power plant earlier than it would under traditional power plant cost recovery. Under traditional cost recovery, a utility does not recover any costs associated with a new power plant until the plant has been placed into commercial service. Carrying costs (i.e., financing costs) accrue as AFUDC, compound during the construction period, and are added to the construction cost balance. When the plant is placed in service, rates may be adjusted by the PSC to provide for recovery of these costs. Under the advanced cost recovery mechanism, carrying costs and preconstruction costs (e.g., design, siting, licensing, and site clearing) are eligible for recovery through rates as they are incurred.¹¹ Thus, these costs do not accrue and compound during the course of construction. When the plant is placed into commercial service, rates are automatically adjusted to provide for recovery of the construction cost balance. Because preconstruction costs and carrying costs have already been recovered and have not compounded during construction of the plant, the rate impact upon completion is lower than it otherwise would be under traditional cost recovery. Under both traditional cost recovery and advanced cost recovery, the utility is required to raise capital and/or use its own funds to pay for construction of the power plant.

In 2007, the Legislature amended the law to provide similar treatment for integrated gasification combined cycle power plants.¹²

Implementation of Advanced Cost Recovery

To implement the advanced cost recovery law, the PSC adopted Rule 25-6.0423, Florida Administrative Code, on April 8, 2007. The rule establishes a process by which a utility may request and obtain approval to recover the preconstruction costs and carrying costs of new nuclear generation through ongoing annual proceedings. After a utility has obtained a determination of need for a new nuclear generation project, the utility may petition the PSC for cost recovery through an adjustment to

⁶ An "allowance for funds used during construction" (AFUDC) represents the costs of financing the construction of facilities before the facilities are completed and included in a utility's rate base. The AFUDC rate reflects the utility's weighted cost of capital, including debt and equity components. *Florida's Electric Utilities: A Reference Guide* (Florida Electric Power Coordinating Group, Revised 1994).

⁷ Section 366.93(5), F.S.

⁸ Section 366.93(6), F.S.

⁹ *Id.*

¹⁰ Section 366.93(4), F.S.

¹¹ Based on estimates by Florida Power & Light Company, licensing and other preconstruction costs will constitute approximately 3-6 percent of total project costs, and the carrying costs on construction costs will constitute approximately 8-10 percent of total project costs. These amounts will vary by project. See, Statement of Steven Scroggs, Senior Director, Nuclear Development, Florida Power & Light Company, before the Florida House of Representatives, Energy & Utilities Subcommittee (March 27, 2013).

¹² Section 1, Chapter 2007-117, Laws of Florida.

the utility's capacity cost recovery charges.¹³ In each annual proceeding, the PSC will determine the prudence of eligible costs incurred in the prior year as well as the reasonableness of actual and estimated project costs for the current and upcoming year. Those costs deemed reasonable and prudent are allowed for recovery. Estimated and projected costs are subject to true-up in the following year's proceeding.

Since adoption of the PSC's rule, Progress Energy Florida (Progress)¹⁴ and Florida Power & Light Company (FPL) have used the advanced cost recovery law to obtain recovery of costs associated with the following nuclear power projects:

- Progress – 180 megawatt (MW) expansion of existing Crystal River Unit 3 (project terminated)¹⁵
- Progress – 2,200 MW addition of new Levy County Units 1 & 2 (pending NRC licensure)¹⁶
- FPL – 208 MW expansion of existing Turkey Point Units 3 & 4 (complete)¹⁷
- FPL – 206 MW expansion of existing St. Lucie Units 1 & 2 (complete)¹⁸
- FPL – 2,200-3,040 MW addition of new Turkey Point Units 6 & 7 (pending NRC licensure)¹⁹

Because each of these projects was submitted to the PSC for a determination of need prior to December 31, 2010, the AFUDC rates in effect for each utility as of 2006 have been used to calculate the recoverable carrying costs for the projects.

In 2007, Tampa Electric Company filed a petition for determination of need for an integrated gasification combined cycle power plant, but subsequently withdrew its petition.²⁰ No utility has filed for approval of such a plant since that time. Accordingly, no utility has used advanced cost recovery for an integrated gasification combined cycle power plant.

Developments / Changed Circumstances since Initial Implementation of Advanced Cost Recovery

Progress and FPL have received all state regulatory approvals for the expansion projects and new construction projects listed above. In addition, FPL has received all required NRC license approvals for its expansion projects. However, a number of circumstances have changed since initial approval of these projects, including:

- Decreased growth in statewide demand for electrical power;
- Lower and less volatile natural gas prices as a result of increased supply sources;
- Delays in the federal licensing process, including a recent suspension of final decisions on licenses pending a reassessment of risks related to spent nuclear fuel storage;²¹ and
- No new costs associated with carbon emissions.

¹³ Since 1992, capacity cost recovery charges have been set on an annual basis to allow utilities to recover the costs of purchasing generating capacity from wholesale electricity providers. These charges have historically constituted a relatively small portion of each utility's overall rates.

¹⁴ Progress merged with Duke Energy Corporation effective July 2, 2012. For purposes of this analysis, the combined company is referred to as "Progress."

¹⁵ Determination of Need granted by the PSC in Order No. PSC-07-0119-FOF-EI, issued February 8, 2007, in Docket No. 060642-EI. On February 5, 2013, Progress announced its decision to retire CR3, effectively terminating the uprate project.

¹⁶ Determination of Need granted by the PSC in Order No. PSC-08-0518-FOF-EI, issued August 12, 2008, in Docket No. 080148-EI.

¹⁷ Determination of Need granted by the PSC in Order No. PSC-08-0021-FOF-EI, issued January 7, 2008, in Docket No. 070602-EI.

¹⁸ *Id.*

¹⁹ Determination of Need granted by the PSC in Order No. PSC-08-0237-FOF-EI, issued April 11, 2008, in Docket No. 070650-EI.

²⁰ See Order No. PSC-07-0877-FOF-EI, issued October 31, 2007, in Docket No. 070647-EI.

²¹ In June 2012, a federal appeals court required the NRC to conduct a more thorough review of the potential environmental impacts of spent fuel from new nuclear units. New York v. Nuclear Regulatory Commission, 681 F.3d 471 (June 8, 2012). The NRC expects to complete its review in September 2014.

Since these projects were initially approved by the PSC, the estimated costs have risen for all of the projects. Further, the projected in-service dates for the new construction projects have been pushed back several years. The table below shows how estimated costs and in-service dates for the specific projects have changed since initial approval by the PSC:

	Original Estimates		Current Estimates (2012)	
	Total Cost (millions)	In-Service Year	Total Cost (millions)	In-Service Year
FPL				
Upgrades to existing nuclear plants (St. Lucie 1&2 and Turkey Point 3&4)	\$1,446	2011-2012	Min. \$2,956 Max. \$3,150	2012-2013
New nuclear plant (Turkey Point 6&7)	Min. \$8,622 Max. \$12,597	2018-2020	Min. \$12,812 Max. \$18,694	2022-2023
Progress				
Upgrades to existing nuclear plant (Crystal River 3)*	\$382	2011	\$635	2014 (Terminated-2013)
New nuclear plant (Levy 1&2)	\$16,897	2016-2017	\$23,987	2024-2025

Source: Florida Public Service Commission

* On February 5, 2013, Progress announced its decision to retire the unit. Because repair of the unit was a prerequisite to the uprate project, the uprate project has been terminated.

In addition, the utilities' AFUDC rates have decreased from their 2006 levels to reflect decreased costs of capital since that time. For Progress, the AFUDC rate has decreased from 8.848% in 2006 to 7.44% presently. For FPL, the AFUDC rate has decreased from 7.42% in 2006 to 6.41% presently.

As part of its annual cost recovery proceedings,²² the PSC reviews the long-term feasibility of these projects. In its most recent annual review of these projects, the PSC found that although the overall cost-effectiveness of the projects has declined, the projects remain feasible in light of economic, regulatory, and technical factors.²³ The PSC did not rule on the continuing feasibility of Progress' expansion of Crystal River Unit 3, as the status of that project was unresolved at that time.

Effect of Proposed Changes

The bill amends the advanced cost recovery provisions of section 366.93, F.S. Specifically, the bill:

- Provides that recoverable carrying costs on the construction costs associated with a nuclear power project must be calculated based on the utility's PSC-approved AFUDC rate.
- Provides that the PSC may approve recovery for costs incurred after final NRC licensure of a nuclear power plant only upon finding that construction of the plant will continue to provide the most cost-effective source of power for the utility, taking into account whether the plant provides

²² The order resulting from the PSC's 2011 cost recovery proceedings is subject to a pending appeal before the Florida Supreme Court. The appellants – the Southern Alliance for Clean Energy – argue two main points: (1) the utilities have not demonstrated intent to build the new planned units; and (2) section 366.93, F.S., is an unconstitutional delegation of legislative authority because it does not provide sufficient guidance to the PSC. Oral arguments were held Thursday, October 4, 2012. The court has not yet issued a decision, and there is no set schedule for a decision by the court.

²³ Order No. PSC-12-0650-FOF-EI, issued December 11, 2012, in Docket No. 120009-EI.

needed base-load capacity for the utility, improves the balance of fuel diversity, and enhances the long-term stability and reliability of the electric grid.

- Limits the availability of advanced cost recovery through no later than December 31, 2025.
- Precludes new power plants from being eligible for advanced cost recovery.

Calculation of Recoverable Carrying Costs – Applicable AFUDC Rate

The bill provides that recoverable carrying costs on the construction costs associated with a nuclear power project must be calculated based on the utility's PSC-approved AFUDC rate. Each utility's AFUDC rate reflects its weighted cost of capital, including debt and equity components. Changes to these rates are approved by the PSC from time to time as the costs of debt and equity financing change.

Under current law, recoverable carrying costs on nuclear power projects are calculated using the utility's AFUDC rate in effect in 2006: 8.848% for Progress, and 7.42% for FPL. Because capital costs have decreased since 2006, the utilities' 2006 AFUDC rates may overstate actual carrying costs in the present environment. Current, PSC-approved AFUDC rates are 7.44% for Progress and 6.41% for FPL. Thus, the bill will have the immediate effect of lowering the rates at which recoverable carrying costs are calculated. However, if a utility's authorized AFUDC rate increases to exceed its 2006 level during the term of advanced cost recovery, the rate at which recoverable carrying costs are calculated will increase beyond the level provided for in current law.

Post-Licensure Review

The bill provides that the PSC may approve recovery of costs incurred after final licensure of a nuclear power plant by the Nuclear Regulatory Commission (NRC) only upon finding, based on updated cost estimates, construction schedules, and feasibility analyses, that construction of the plant will continue to provide the most cost-effective source of power for the utility, taking into account whether the plant provides needed base-load capacity for the utility, improves the balance of fuel diversity, and enhances the long-term stability and reliability of the electric grid. Though the PSC currently conducts long-term feasibility analyses for nuclear power projects as part of its annual cost recovery proceedings, the bill specifically requires a review of each project following licensure by the NRC as a condition for continued advanced cost recovery treatment.

The review required by the bill involves factors similar, but not identical, to the factors reviewed in a determination of need proceeding for a new nuclear power plant. Section 403.519(4), F.S., requires the PSC, when determining the need for a new nuclear power plant to consider:

- The need for electric system reliability and integrity, including fuel diversity;
- The need for base-load generating capacity;
- The need for adequate electricity at a reasonable cost; and
- Whether renewable energy sources and technologies, as well as conservation measures, are utilized to the extent reasonably available.

In addition, section 403.519(4), F.S., requires the PSC to take into account whether the new nuclear plant will:

- Provide needed base-load capacity.
- Enhance the reliability of electric power production within the state by improving the balance of power plant fuel diversity and reducing Florida's dependence on fuel oil and natural gas.
- Provide the most cost-effective source of power, taking into account the need to improve the balance of fuel diversity, reduce Florida's dependence on fuel oil and natural gas, reduce air

emission compliance costs, and contribute to the long-term stability and reliability of the electric grid.²⁴

The review required by the bill focuses on whether the nuclear power plant, based on updated cost estimates and schedules, remains the most cost-effective source of power. The bill allows the PSC, in making this determination, to weigh the plant's ability to provide needed base-load capacity for the utility, to improve fuel diversity, and to enhance long-term stability and reliability of the electric grid. The bill does not require any additional siting review.

This provision of the bill is intended to serve as a check on the prudence of moving forward with a new nuclear power plant in light of the changed circumstances over the course of the federal licensing process.

Time Limit for Advanced Cost Recovery

The bill provides that the PSC may allow the recovery of eligible costs (preconstruction costs and carrying costs on construction costs) through the advanced cost recovery mechanism until the nuclear power plant is placed in commercial service or until December 31, 2025, whichever occurs first. Thus, utilities would be unable to use the advanced cost recovery mechanism beyond 2025.

While this provision indicates that advanced cost recovery would be available through 2025, its practical effect may be to require a utility to decide much sooner – perhaps within the next 2-5 years – whether to commence construction of a new nuclear power plant. A significant portion of the carrying costs recoverable through the advanced cost recovery mechanism would likely be incurred in the last years of plant construction.²⁵ Assuming a construction schedule of between 7 and 10 years for a new nuclear power plant,²⁶ a utility could risk losing the benefit of advanced cost recovery for these carrying costs if it does not commence construction in time to complete the plant by 2025.

Arguably, this provision may encourage a utility to move forward with a project on a timetable that does not most efficiently meet the needs of its customers. However, as discussed above, the bill provides for additional PSC review after federal licensure as a condition for ongoing use of the advanced cost recovery mechanism. This review may limit the possibility of a project going forward prematurely.

Exclusion of New Nuclear and Integrated Gasification Combined Cycle Power Projects

The bill provides that section 366.93, F.S., applies only to power plants for which the PSC has granted a determination of need prior to January 1, 2013. Thus, no new nuclear power projects or integrated combined cycle power plants would be eligible to use the advanced cost recovery provisions of that section. Because no new integrated gasification combined cycle power plant has been granted a determination of need, the bill removes references to such plants.

B. SECTION DIRECTORY:

Section 1. Amends s. 366.93, F.S., relating to cost recovery for the siting, design, licensing, and construction of nuclear and integrated gasification combined cycle power plants.

Section 2. Provides an effective date of July 1, 2013.

²⁴ Section 403.519(4)(b), F.S.

²⁵ Based on a sample calculation performed by the PSC, more than half of the total costs eligible for advanced cost recovery would be recovered in the last three years prior to commercial operation of a plant.

²⁶ See, e.g., Statement of Steven Scroggs, Senior Director, Nuclear Development, Florida Power & Light Company, before the Florida House of Representatives, Energy & Utilities Subcommittee (March 27, 2013), indicating an approximately 9-year timeline for construction activities.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None. The bill may require the Public Service Commission (PSC) to conduct an additional review for each of two nuclear power projects proposed by Progress Energy Florida and Florida Power & Light Company that are currently pending licensure by the Nuclear Regulatory Commission. The PSC has indicated that the cost of any such reviews can be covered within its existing resources.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

If a utility obtains a license from the Nuclear Regulatory Commission to construct a new nuclear power plant in Florida and wishes to continue construction and use the advanced cost recovery mechanism to recover eligible carrying costs, the bill requires an additional regulatory review by the Public Service Commission. The impact of this review on utility costs should be insignificant.

The bill provides that recoverable carrying costs on the construction costs associated with a nuclear power project must be calculated based on the utility's PSC-approved AFUDC rate. Current, PSC-approved AFUDC rates are lower than the rates presently fixed by law, thus the bill will have the immediate effect of reducing costs recovered from customers and lowering rates. However, if a utility's authorized AFUDC rate increases to exceed the rate presently fixed in law during the term of advanced cost recovery, the bill will increase costs recoverable from customers beyond the level provided for in current law.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to affect county or municipal government.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
 2 An act relating to cost recovery for nuclear and
 3 integrated gasification combined cycle power plants;
 4 amending s. 366.93, F.S.; deleting the definition of
 5 the term "integrated gasification combined cycle power
 6 plant"; revising provisions for the calculation of
 7 carrying costs; providing a timeframe for the recovery
 8 of specified costs; authorizing the Public Service
 9 Commission to approve recovery of costs after final
 10 licensure under certain conditions; conforming
 11 provisions to changes made by the act; providing for
 12 applicability; providing an effective date.

13
 14 Be It Enacted by the Legislature of the State of Florida:

15
 16 Section 1. Section 366.93, Florida Statutes, is amended to
 17 read:

18 366.93 Cost recovery for the siting, design, licensing,
 19 and construction of nuclear ~~and integrated gasification combined~~
 20 ~~eyele~~ power plants.—

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

22 (a) "Cost" includes, but is not limited to, all capital
 23 investments, including rate of return, any applicable taxes, and
 24 all expenses, including operation and maintenance expenses,
 25 related to or resulting from the siting, licensing, design,
 26 construction, or operation of a ~~the~~ nuclear power plant,
 27 including new, expanded, or relocated electrical transmission
 28 lines or facilities of any size that are necessary thereto, ~~or~~

29 | ~~of the integrated gasification combined cycle power plant.~~

30 | (b) "Electric utility" or "utility" has the same meaning
31 | as ~~that~~ provided in s. 366.8255(1)(a).

32 | ~~(c) "Integrated gasification combined cycle power plant"~~
33 | ~~or "plant" means an electrical power plant as defined in s.~~
34 | ~~403.503(14) that uses synthesis gas produced by integrated~~
35 | ~~gasification technology.~~

36 | (c)~~(d)~~ "Nuclear power plant" or "plant" means an
37 | electrical power plant as defined in s. 403.503(14) that uses
38 | nuclear materials for fuel.

39 | (d)~~(e)~~ "Power plant" or "plant" means a nuclear power
40 | plant ~~or an integrated gasification combined cycle power plant.~~

41 | (e)~~(f)~~ "Preconstruction" is that period of time after a
42 | site, including any related electrical transmission lines or
43 | facilities, has been selected through and including the date the
44 | utility completes site clearing work. Preconstruction costs
45 | shall be afforded deferred accounting treatment and shall accrue
46 | a carrying charge equal to the utility's allowance for funds
47 | during construction (AFUDC) rate until recovered in rates.

48 | ~~(2) Within 6 months after the enactment of this act, The~~
49 | ~~commission shall establish, by rule, alternative cost recovery~~
50 | ~~mechanisms for the recovery of costs incurred in the siting,~~
51 | ~~design, licensing, and construction of a nuclear power plant,~~
52 | ~~including new, expanded, or relocated electrical transmission~~
53 | ~~lines and facilities that are necessary thereto, or of an~~
54 | ~~integrated gasification combined cycle power plant. Such~~
55 | ~~mechanisms shall:~~

56 | (a) Be designed to promote utility investment in nuclear

57 ~~or integrated gasification combined cycle~~ power plants and allow
 58 for the recovery in rates of all prudently incurred costs and
 59 shall include, but not be limited to:

60 1.(a) Recovery through the capacity cost recovery clause
 61 of any preconstruction costs.

62 2.(b) Recovery through an incremental increase in the
 63 utility's capacity cost recovery clause rates of the carrying
 64 costs on the utility's projected construction cost balance
 65 associated with the nuclear ~~or integrated gasification combined~~
 66 ~~cycle~~ power plant. ~~To encourage investment and provide~~
 67 ~~certainty, for nuclear or integrated gasification combined cycle~~
 68 ~~power plant need petitions submitted on or before December 31,~~
 69 ~~2010,~~ Associated carrying costs shall be equal to the utility's
 70 pretax AFUDC rate approved by the commission in effect upon this
 71 act becoming law. ~~For nuclear or integrated gasification~~
 72 ~~combined cycle power plants for which need petitions are~~
 73 ~~submitted after December 31, 2010, the utility's existing pretax~~
 74 ~~AFUDC rate is presumed to be appropriate unless determined~~
 75 ~~otherwise by the commission in the determination of need for the~~
 76 ~~nuclear or integrated gasification combined cycle power plant.~~

77 (b) Provide for recovery of the costs specified under
 78 paragraph (a) until the nuclear power plant is placed in
 79 commercial service or until December 31, 2025, whichever occurs
 80 first.

81 (3) After a petition for determination of need is granted,
 82 a utility may petition the commission for cost recovery as
 83 permitted by this section and commission rules. The commission
 84 may approve recovery of costs incurred after final licensure of

85 | a nuclear power plant by the Nuclear Regulatory Commission only
 86 | upon finding, based on updated cost estimates, construction
 87 | schedules, and feasibility analyses, that construction of the
 88 | plant will continue to provide the most cost-effective source of
 89 | power for the utility, taking into account whether the plant
 90 | provides needed base-load capacity for the utility, improves the
 91 | balance of fuel diversity, and enhances the long-term stability
 92 | and reliability of the electric grid.

93 | (4) When the nuclear ~~or integrated gasification combined~~
 94 | ~~cycle~~ power plant is placed in commercial service, the utility
 95 | shall be allowed to increase its base rate charges by the
 96 | projected annual revenue requirements of the nuclear ~~or~~
 97 | ~~integrated gasification combined cycle~~ power plant based on the
 98 | jurisdictional annual revenue requirements of the plant for the
 99 | first 12 months of operation. The rate of return on capital
 100 | investments shall be calculated using the utility's rate of
 101 | return last approved by the commission before ~~prior to~~ the
 102 | commercial inservice date of the nuclear ~~or integrated~~
 103 | ~~gasification combined cycle~~ power plant. If any existing
 104 | generating plant is retired as a result of operation of the
 105 | nuclear ~~or integrated gasification combined cycle~~ power plant,
 106 | the commission shall allow for the recovery, through an increase
 107 | in base rate charges, of the net book value of the retired plant
 108 | over a period not to exceed 5 years.

109 | (5) The utility shall report to the commission annually
 110 | the budgeted and actual costs as compared to the estimated
 111 | inservice cost of the nuclear ~~or integrated gasification~~
 112 | ~~combined cycle~~ power plant provided by the utility pursuant to

113 s. 403.519(4), until the commercial operation of the nuclear ~~or~~
 114 ~~integrated gasification combined cycle~~ power plant. The utility
 115 shall provide such information on an annual basis following the
 116 final order by the commission approving the determination of
 117 need for the nuclear ~~or integrated gasification combined cycle~~
 118 power plant, with the understanding that some costs may be
 119 higher than estimated and other costs may be lower.

120 (6) If the utility elects not to complete or is precluded
 121 from completing construction of the nuclear power plant,
 122 including new, expanded, or relocated electrical transmission
 123 lines or facilities necessary thereto, ~~or of the integrated~~
 124 ~~gasification combined cycle power plant,~~ the utility shall be
 125 allowed to recover all prudent preconstruction and construction
 126 costs incurred following the commission's issuance of a final
 127 order granting a determination of need for the nuclear power
 128 plant and electrical transmission lines and facilities necessary
 129 thereto ~~or for the integrated gasification combined cycle power~~
 130 ~~plant.~~ The utility shall recover such costs through the capacity
 131 cost recovery clause over a period equal to the period during
 132 which the costs were incurred or 5 years, whichever is greater.
 133 The unrecovered balance during the recovery period will accrue
 134 interest at the utility's weighted average cost of capital as
 135 reported in the commission's earnings surveillance reporting
 136 requirement for the prior year.

137 (7) This section applies only to power plants for which
 138 the commission granted a determination of need before January 1,
 139 2013.

140 Section 2. This act shall take effect July 1, 2013.



Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED _____ (Y/N)
 ADOPTED AS AMENDED _____ (Y/N)
 ADOPTED W/O OBJECTION _____ (Y/N)
 FAILED TO ADOPT _____ (Y/N)
 WITHDRAWN _____ (Y/N)
 OTHER _____

1 Committee/Subcommittee hearing PCB: Energy & Utilities
 2 Subcommittee
 3 Representative Diaz, J. offered the following:

Amendment (with title amendment)

6 Remove everything after the enacting clause and insert:
 7 Section 1. Section 366.93, Florida Statutes, is amended to
 8 read:

9 366.93 Cost recovery for the siting, design, licensing,
 10 and construction of nuclear and integrated gasification combined
 11 cycle power plants.-

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

13 (a) "Cost" includes, but is not limited to, all capital
 14 investments, including rate of return, any applicable taxes, and
 15 all expenses, including operation and maintenance expenses,
 16 related to or resulting from the siting, licensing, design,
 17 construction, or operation of a ~~the~~ nuclear power plant,
 18 including new, expanded, or relocated electrical transmission
 19 lines or facilities of any size that are necessary thereto, or



Amendment No. 1

20 of the integrated gasification combined cycle power plant.

21 (b) "Electric utility" or "utility" has the same meaning
22 as ~~that~~ provided in s. 366.8255(1)(a).

23 (c) "Integrated gasification combined cycle power plant"
24 or "plant" means an electrical power plant as defined in s.
25 403.503(14) that uses synthesis gas produced by integrated
26 gasification technology.

27 (d) "Nuclear power plant" or "plant" means an electrical
28 power plant as defined in s. 403.503(14) that uses nuclear
29 materials for fuel.

30 (e) "Power plant" or "plant" means a nuclear power plant
31 or an integrated gasification combined cycle power plant.

32 (f) "Preconstruction" is that period of time after a site,
33 including any related electrical transmission lines or
34 facilities, has been selected through and including the date the
35 utility completes site clearing work. Preconstruction costs
36 shall be afforded deferred accounting treatment and shall accrue
37 a carrying charge equal to the utility's allowance for funds
38 during construction (AFUDC) rate until recovered in rates.

39 (2) ~~Within 6 months after the enactment of this act,~~ The
40 commission shall establish, by rule, alternative cost recovery
41 mechanisms for the recovery of costs incurred in the siting,
42 design, licensing, and construction of a nuclear power plant,
43 including new, expanded, or relocated electrical transmission
44 lines and facilities that are necessary thereto, or of an
45 integrated gasification combined cycle power plant. Such
46 mechanisms shall:

47 (a) Be designed to promote utility investment in nuclear



Amendment No. 1

48 or integrated gasification combined cycle power plants and allow
49 for the recovery in rates of all prudently incurred costs and
50 shall include, but not be limited to:

51 1.(a) Recovery through the capacity cost recovery clause
52 of any preconstruction costs.

53 2.(b) Recovery through an incremental increase in the
54 utility's capacity cost recovery clause rates of the carrying
55 costs on the utility's projected construction cost balance
56 associated with the nuclear or integrated gasification combined
57 cycle power plant. ~~To encourage investment and provide~~
58 ~~certainty, for nuclear or integrated gasification combined cycle~~
59 ~~power plant need petitions submitted on or before December 31,~~
60 ~~2010,~~ Associated carrying costs shall be equal to the utility's
61 pretax AFUDC rate approved by the commission in effect upon this
62 act becoming law. For nuclear or integrated gasification
63 combined cycle power plants for which need petitions are
64 submitted after December 31, 2010, the utility's existing pretax
65 AFUDC rate is presumed to be appropriate unless determined
66 otherwise by the commission in the determination of need for the
67 nuclear or integrated gasification combined cycle power plant.

68 (b) Provide for recovery of the costs specified under
69 paragraph (a) until the nuclear or integrated gasification
70 combined cycle power plant is placed in commercial service or
71 until December 31, 2025, whichever occurs first.

72 (3) After a petition for determination of need is granted,
73 a utility may petition the commission for cost recovery as
74 permitted by this section and commission rules. The commission
75 may approve recovery of costs incurred after final licensure of



Amendment No. 1

76 | a nuclear power plant by the Nuclear Regulatory Commission only
77 | upon finding, based on updated cost estimates, construction
78 | schedules, and feasibility analyses, that construction of the
79 | plant will continue to provide the most cost-effective source of
80 | power for the utility, taking into account whether the plant
81 | provides needed base-load capacity for the utility, improves the
82 | balance of fuel diversity, and enhances the long-term stability
83 | and reliability of the electric grid.

84 | (4) When the nuclear or integrated gasification combined
85 | cycle power plant is placed in commercial service, the utility
86 | shall be allowed to increase its base rate charges by the
87 | projected annual revenue requirements of the nuclear or
88 | integrated gasification combined cycle power plant based on the
89 | jurisdictional annual revenue requirements of the plant for the
90 | first 12 months of operation. The rate of return on capital
91 | investments shall be calculated using the utility's rate of
92 | return last approved by the commission before ~~prior to~~ the
93 | commercial inservice date of the nuclear or integrated
94 | gasification combined cycle power plant. If any existing
95 | generating plant is retired as a result of operation of the
96 | nuclear or integrated gasification combined cycle power plant,
97 | the commission shall allow for the recovery, through an increase
98 | in base rate charges, of the net book value of the retired plant
99 | over a period not to exceed 5 years.

100 | (5) The utility shall report to the commission annually
101 | the budgeted and actual costs as compared to the estimated
102 | inservice cost of the nuclear or integrated gasification
103 | combined cycle power plant provided by the utility pursuant to



Amendment No. 1

104 s. 403.519(4), until the commercial operation of the nuclear or
105 integrated gasification combined cycle power plant. The utility
106 shall provide such information on an annual basis following the
107 final order by the commission approving the determination of
108 need for the nuclear or integrated gasification combined cycle
109 power plant, with the understanding that some costs may be
110 higher than estimated and other costs may be lower.

111 (6) If the utility elects not to complete or is precluded
112 from completing construction of the nuclear power plant,
113 including new, expanded, or relocated electrical transmission
114 lines or facilities necessary thereto, or of the integrated
115 gasification combined cycle power plant, the utility shall be
116 allowed to recover all prudent preconstruction and construction
117 costs incurred following the commission's issuance of a final
118 order granting a determination of need for the nuclear power
119 plant and electrical transmission lines and facilities necessary
120 thereto or for the integrated gasification combined cycle power
121 plant. The utility shall recover such costs through the capacity
122 cost recovery clause over a period equal to the period during
123 which the costs were incurred or 5 years, whichever is greater.
124 The unrecovered balance during the recovery period will accrue
125 interest at the utility's weighted average cost of capital as
126 reported in the commission's earnings surveillance reporting
127 requirement for the prior year.

128 (7) This section applies only to power plants for which
129 the commission granted a determination of need before January 1,
130 2013.

131 Section 2. This act shall take effect July 1, 2013



Amendment No. 1

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T I T L E A M E N D M E N T
Remove everything before the enacting clause and insert:
An act relating to cost recovery for nuclear and
integrated gasification combined cycle power plants;
amending s. 366.93, F.S.; revising provisions for the
calculation of carrying costs; providing a timeframe
for the recovery of specified costs; authorizing the
Public Service Commission to approve recovery of costs
after final licensure under certain conditions;
conforming provisions to changes made by the act;
providing for applicability; providing an effective
date.



Amendment No. 1a

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing PCB: Energy & Utilities

2 Subcommittee

3 Representative Rehwinkel Vasilinda offered the following:

4

5 **Amendment to Amendment (PCB EUS 13-01 Strike1) by**

6 **Representative J. Diaz**

7 Remove line 47 of the amendment and insert:

8 (a) Not favor or promote one energy source or industry

9 over another.

10 (b) Be designed to promote utility investment in nuclear

11

12 Remove line 68 of the amendment and insert:

13 (c) Provide for recovery of the costs specified under



Amendment No. 1b

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing PCB: Energy & Utilities

2 Subcommittee

3 Representative Rehwinkel Vasilinda offered the following:

4

5 **Amendment to Amendment (PCB EUS 13-01 Strike1) by**

6 **Representative J. Diaz**

7 Remove line 49 of the amendment and insert:

8 for the recovery in rates of all prudently and reasonably

9 incurred costs and

10

11 Remove lines 80-81 of the amendment and insert:

12 power for the consumer, taking into account whether the plant

13 provides needed base-load capacity for the consumer, improves

14 the



Amendment No. 1c

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

Committee/Subcommittee hearing PCB: Energy & Utilities
Subcommittee

Representative Rehwinkel Vasilinda offered the following:

**Amendment to Amendment (PCB EUS 13-01 Strike1) by
Representative J. Diaz**

Remove lines 51-54 of the amendment and insert:

1.(a) Recovery through a separate charge entitled "Nuclear
Cost Recovery Charge" and shown as a separate line item on each
customer bill the capacity cost recovery clause of any
preconstruction costs.

2.(b) Recovery through a separate charge entitled the
"Nuclear Cost Recovery Charge" and shown as a separate line item
on each customer bill an incremental increase in the utility's
capacity cost recovery clause rates of the carrying

Remove lines 80-83 of the amendment and insert:
power for the utility. In determining cost-effectiveness, the
utility shall comply with following requirements in order to be
eligible to recover any additional costs associated with such



Amendment No. 1c

21 plant pursuant to this section. For purposes of this section,
22 "additional costs" means any and all costs associated with or
23 related to the plant incurred after December 31 of the year in
24 which the utility receives a license from the Nuclear Regulatory
25 Commission.

26 (a) In its next filing with the commission after receiving
27 a license from the Nuclear Regulatory Commission, the utility
28 shall present a firm cost that is independently audited for its
29 nuclear project in terms of:

30 1. The total project cost, including all capital costs,
31 capitalized carrying costs, and preconstruction and carrying
32 costs that would be borne by customers if cost recovery were
33 granted pursuant to this section.

34 2. The projected total cost for energy to be produced by
35 the nuclear plant, both in total dollars per year and on a cents
36 per kilowatt-hour basis, for each year beginning with the year
37 that the plant achieves inservice status and continuing for 30
38 years thereafter, provided that all costs recovered before the
39 facility achieving inservice status shall be added into the
40 projected costs per kilowatt-hour on an equal, pro rata basis
41 over the first 10 years after the plant achieves inservice
42 status.

43 3. The projected rate impacts on all customer classes for
44 each year beginning with the year following such filing and
45 continuing for 30 years after the plant is projected to achieve
46 inservice status.

47



Amendment No. 1c

48 In any order approving cost recovery for any such additional
49 costs, the commission shall specify the maximum amounts that the
50 utility may recover in each year of the 30-year period, and
51 shall also specify the maximum rates that the utility may charge
52 its customers over the same 30-year period.

53 (b) The utility's testimony accompanying the filing
54 referred to in paragraph (a) shall include testimony by its
55 president or chief nuclear officer affirming that the utility
56 guarantees that the costs and rates shown in its exhibits are
57 the maximum amounts that the utility will seek to recover from
58 its customers associated with the plant through the 30-year
59 period after the plant achieves inservice status. In proceedings
60 on such filing, the commission shall conduct a formal
61 evidentiary hearing with sworn testimony from witnesses in which
62 the utility must prove that there are no more demand side
63 measures or supply side alternatives available that would not
64 meet projected electricity demand at a lower cost per kilowatt-
65 hour.

66 (c) In order to demonstrate that the utility has satisfied
67 this requirement, the utility, after having accounted for all
68 achievable demand-side measures that meet electricity demand at
69 a lower cost per kilowatt hour, shall have offered to purchase
70 amounts of alternative sources of energy, including renewable
71 energy, that can meet the remaining electricity demand that
72 would be produced by its proposed nuclear plant for the 30-year
73 period at prices that are no greater than 90 percent of the
74 yearly projected cost per kilowatt-hour for the nuclear energy.

75 (d) The Legislature encourages the use of a competitive



Amendment No. 1c

76 | independently administered auction process among such energy
77 | providers in order to obtain needed electricity at the lowest
78 | possible cost, as demonstrated by competitive market forces. If
79 | a reliable energy provider offers to provide such energy at
80 | prices that are no greater than 90 percent of the projected
81 | nuclear energy cost per kilowatt-hour over the 30-year period,
82 | or if a competitive auction process yields winning bid prices
83 | that are less than 90 percent of the projected nuclear energy
84 | cost per kilowatt-hour over the 30-year period, the commission
85 | shall approve contracts between the utility and such providers
86 | for cost recovery in accordance with its normal practices.

87 | (e) The commission shall amend its rules to implement this
88 | subsection.

89



Amendment No. 1d

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing PCB: Energy & Utilities

2 Subcommittee

3 Representative Rehwinkel Vasilinda offered the following:

4

5 **Amendment to Amendment (PCB EUS 13-01 Strike1) by**

6 **Representative J. Diaz**

7 Remove lines 82-83 of the amendment and insert:

8 balance of fuel diversity, enhances the long-term stability and

9 reliability of the electric grid, and takes into consideration

10 the needs of national security, energy security and diversity,

11 economic development, environmental stewardship, public health,

12 and safe storage of waste.



Amendment No. 1e

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

Committee/Subcommittee hearing PCB: Energy & Utilities
Subcommittee

Representative Rehwinkel Vasilinda offered the following:

**Amendment to Amendment (PCB EUS 13-01 Strike1) by
Representative J. Diaz (with title amendment)**

Between lines 130 and 131 of the amendment, insert:

Section 2. The Public Service Commission shall impose an immediate moratorium on advanced nuclear cost recovery until the Nuclear Regulatory Commission lifts its moratorium on the issuance and renewal of licenses for new and existing nuclear power plants.

T I T L E A M E N D M E N T

Remove line 146 of the amendment and insert:
providing for applicability; providing for a
moratorium on advanced nuclear cost recovery;
providing an effective ~~date~~.



Amendment No. 1f

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing PCB: Energy & Utilities
 2 Subcommittee

3 Representative Rehwinkel Vasilinda offered the following:

4
 5 **Amendment to Amendment (PCB EUS 13-01 Strike1) by**
 6 **Representative J. Diaz (with title amendment)**

7 Between lines 130 and 131 of the amendment, insert:

8 Section 2. The Public Service Commission shall impose an
 9 immediate moratorium on advanced nuclear cost recovery until the
 10 Federal Government authorizes a permanent disposal site for
 11 nuclear waste and there is adopted an integrated national
 12 security compact with the states whereby individual states have
 13 the right to allow or disallow the transport of nuclear waste
 14 through their territory.

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 17 -----
 18 **T I T L E A M E N D M E N T**

19 Remove line 146 of the amendment and insert:



Amendment No. 1f

20 providing for applicability; providing for a
21 moratorium on advanced nuclear cost recovery;
22 providing an effective ~~date~~.

23



Amendment No. 1g

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

Committee/Subcommittee hearing PCB: Energy & Utilities
Subcommittee

Representative Rehwinkel Vasilinda offered the following:

**Amendment to Amendment (PCB EUS 13-01 Strike1) by
Representative J. Diaz (with title amendment)**

Between lines 130 and 131 of the amendment, insert:

Section 2. The Public Service Commission shall adopt rules that require each utility receiving advanced nuclear cost recovery fees to add to their customers' monthly bills, whether paper, digital, or electronic, the total cost per month for advanced nuclear cost recovery paid by each customer and the final estimated cost of the plant and estimated month and year that the plant will be operational. The rules shall also require such information be prominent and in at least 12-point type on the first page of the bill and be updated annually.



Amendment No. 1g

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T I T L E A M E N D M E N T

Remove line 146 of the amendment and insert:
providing for applicability; directing the commission
to adopt specified rules; providing an effective ~~date.~~