

CHAPTER 2013-184

Committee Substitute for Committee Substitute for Senate Bill No. 1472

An act relating to nuclear and integrated gasification combined cycle power plants; amending s. 366.93, F.S.; modifying an alternative cost recovery mechanism for the recovery of costs for the siting, design, licensing, and construction of nuclear and integrated gasification combined cycle power plants; establishing a procedure and requirements for cost recovery based on preconstruction and construction phases; providing that the commission may not determine that a utility intends to complete construction of a power plant unless the utility proves its efforts by a preponderance of the evidence; providing an effective date.

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

Section 1. Subsections (1), (2), and (3) of section 366.93, Florida Statutes, are amended to read:

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

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

(a) “Cost” includes, but is 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 which ~~that~~ are necessary thereto, or of the integrated gasification combined cycle power plant.

(b) “Electric utility” or “utility” has the same meaning as that provided in s. 366.8255(1)(a).

(c) “Integrated gasification combined cycle power plant” or “plant” means an electrical power plant as defined in s. 403.503(14) which ~~that~~ uses synthesis gas produced by integrated gasification technology.

(d) “Nuclear power plant” or “plant” means an electrical power plant as defined in s. 403.503(14) which ~~that~~ uses nuclear materials for fuel.

(e) “Power plant” or “plant” means a nuclear power plant or an integrated gasification combined cycle power plant.

(f) “Preconstruction” is that period of time after a site, including any related electrical transmission lines or facilities, has been selected through and including the date the utility completes site clearing work. Preconstruction costs must ~~shall~~ be afforded deferred accounting treatment and shall

accrue a carrying charge equal to the utility's allowance for funds during construction (AFUDC) rate until recovered in rates.

(2) Within 6 months after the enactment of this act, the commission shall establish, by rule, alternative cost recovery mechanisms for the recovery of costs incurred in the siting, design, licensing, and construction of a nuclear power plant, including new, expanded, or relocated electrical transmission lines and facilities that are necessary thereto, or of an integrated gasification combined cycle power plant. Such mechanisms must ~~shall~~ be designed to promote utility investment in nuclear or integrated gasification combined cycle power plants and allow for the recovery in rates of all prudently incurred costs, including and shall include, but not be limited to:

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

(b) Recovery through an incremental increase in the utility's capacity cost recovery clause rates of the carrying costs on the utility's projected construction cost balance associated with the nuclear or integrated gasification combined cycle power plant. To encourage investment and provide certainty, ~~for nuclear or integrated gasification combined cycle power plant need petitions submitted on or before December 31, 2010, associated carrying costs must shall be equal to the most recently approved pretax AFUDC at the time an increment of cost recovery is sought in effect upon this act becoming law. For nuclear or integrated gasification combined cycle power plants for which need petitions are submitted after December 31, 2010, the utility's existing pretax AFUDC rate is presumed to be appropriate unless determined otherwise by the commission in the determination of need for the nuclear or integrated gasification combined cycle power plant.~~

(3)(a) After a petition for determination of need is granted, a utility may petition the commission for cost recovery as permitted by this section and commission rules.

(b) During the time that a utility seeks to obtain a combined license from the Nuclear Regulatory Commission for a nuclear power plant or a certification for an integrated gasification combined cycle power plant, the utility may recover only costs related to, or necessary for, obtaining such licensing or certification.

(c) After a utility obtains a license or certification, it must petition the commission for approval before proceeding with preconstruction work beyond those activities necessary to obtain or maintain a license or certificate.

1. The only costs that a utility that has obtained a license or certification may recover before obtaining commission approval are those that are previously approved or necessary to maintain the license or certification.

2. In order for the commission to approve preconstruction work on a plant, it must determine that:

- a. The plant remains feasible; and
- b. The projected costs for the plant are reasonable.

(d) After a utility obtains approval to proceed with postlicensure or postcertification preconstruction work, it must petition the commission for approval of any preconstruction materials or equipment purchases that exceed 1 percent of the total projected cost for the project. Such petition shall be reviewed and completed in the annual Nuclear Cost Recovery Clause proceeding in which it is filed or in a separate proceeding by the utility.

(e) A utility must petition the commission for approval before beginning the construction phase.

1. The only costs that a utility that has obtained commission approval may recover before beginning construction work are those that are previously approved or necessary to maintain the license or certification.

2. In order for the commission to approve proceeding with construction on a plant, it must determine that:

- a. The plant remains feasible; and
- b. The projected costs for the plant are reasonable.

(f)1. If a utility has not begun construction of a plant within:

a. Ten years after the date on which the utility obtains a combined license from the Nuclear Regulatory Commission for a nuclear power plant or a certification for an integrated gasification combined cycle power plant, the utility must petition the commission to preserve the opportunity for future recovery under this section for costs relating to that plant. The commission must determine whether the utility remains intent on building the plant.

(I) If the commission finds that the utility remains intent on building the plant, the utility may continue to recover costs under this section.

(II) If the commission finds a lack of such intent, it may enter an order prohibiting recovery of any future costs relating to the plant under this section.

b. Twenty years after the date on which the utility obtains a combined license from the Nuclear Regulatory Commission for a nuclear power plant or a certification for an integrated gasification combined cycle power plant, the utility may not, under this section, recover future costs relating to that plant.

2. Consistent with subsection (4), nothing in this section shall preclude a utility from recovering the full revenue requirements of the nuclear power

plant or integrated gasification combined cycle power plant in base rates upon the commercial in-service date.

3. Beginning January 1, 2014, in making its determination for any cost recovery under this paragraph, the commission may find that a utility intends to construct a nuclear or integrated gasification combined cycle power plant only if the utility proves by a preponderance of the evidence that it has committed sufficient, meaningful, and available resources to enable the project to be completed and that its intent is realistic and practical.

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

Approved by the Governor June 14, 2013.

Filed in Office Secretary of State June 14, 2013.