

CHAPTER 2019-158

Committee Substitute for Committee Substitute for Committee Substitute for Senate Bill No. 796

An act relating to public utility storm protection plans; creating s. 366.96, F.S.; providing legislative findings; defining terms; requiring public utilities to submit to the Public Service Commission, for review, a transmission and distribution storm protection plan; specifying matters to be considered in the commission's review of a plan; requiring the commission to approve, modify, or deny a plan within a specified timeframe; requiring a utility to update its plan on a specified basis, subject to commission review; requiring the commission to conduct an annual proceeding to allow utilities to recover certain costs through a storm protection plan cost recovery clause; providing that utilities may not include costs recovered through their base rates; providing that certain costs will not be subject to certain disallowances or reviews; providing for the allocation of such costs; authorizing utilities to recover depreciation and a return on certain capital costs through the recovery clause; requiring the commission to submit an annual report to the Governor and Legislature; requiring rulemaking; providing appropriations and authorizing positions; providing an effective date.

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

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

366.96 Storm protection plan cost recovery.—

(1) The Legislature finds that:

(a) During extreme weather conditions, high winds can cause vegetation and debris to blow into and damage electrical transmission and distribution facilities, resulting in power outages.

(b) A majority of the power outages that occur during extreme weather conditions in the state are caused by vegetation blown by the wind.

(c) It is in the state's interest to strengthen electric utility infrastructure to withstand extreme weather conditions by promoting the overhead hardening of electrical transmission and distribution facilities, the undergrounding of certain electrical distribution lines, and vegetation management.

(d) Protecting and strengthening transmission and distribution electric utility infrastructure from extreme weather conditions can effectively reduce restoration costs and outage times to customers and improve overall service reliability for customers.

(e) It is in the state’s interest for each utility to mitigate restoration costs and outage times to utility customers when developing transmission and distribution storm protection plans.

(f) All customers benefit from the reduced costs of storm restoration.

(2) DEFINITIONS.—As used in this section, the term:

(a) “Public utility” or “utility” has the same meaning as set forth in s. 366.02(1), except that it does not include a gas utility.

(b) “Transmission and distribution storm protection plan” or “plan” means a plan for the overhead hardening and increased resilience of electric transmission and distribution facilities, undergrounding of electric distribution facilities, and vegetation management.

(c) “Transmission and distribution storm protection plan costs” means the reasonable and prudent costs to implement an approved transmission and distribution storm protection plan.

(d) “Vegetation management” means the actions a public utility takes to prevent or curtail vegetation from interfering with public utility infrastructure. The term includes, but is not limited to, the mowing of vegetation, application of herbicides, tree trimming, and removal of trees or brush near and around electric transmission and distribution facilities.

(3) Each public utility shall file, pursuant to commission rule, a transmission and distribution storm protection plan that covers the immediate 10-year planning period. Each plan must explain the systematic approach the utility will follow to achieve the objectives of reducing restoration costs and outage times associated with extreme weather events and enhancing reliability. The commission shall adopt rules to specify the elements that must be included in a utility’s filing for review of transmission and distribution storm protection plans.

(4) In its review of each transmission and distribution storm protection plan filed pursuant to this section, the commission shall consider:

(a) The extent to which the plan is expected to reduce restoration costs and outage times associated with extreme weather events and enhance reliability, including whether the plan prioritizes areas of lower reliability performance.

(b) The extent to which storm protection of transmission and distribution infrastructure is feasible, reasonable, or practical in certain areas of the utility’s service territory, including, but not limited to, flood zones and rural areas.

(c) The estimated costs and benefits to the utility and its customers of making the improvements proposed in the plan.

(d) The estimated annual rate impact resulting from implementation of the plan during the first 3 years addressed in the plan.

(5) No later than 180 days after a utility files a transmission and distribution storm protection plan that contains all of the elements required by commission rule, the commission shall determine whether it is in the public interest to approve, approve with modification, or deny the plan.

(6) At least every 3 years after approval of a utility's transmission and distribution storm protection plan, the utility must file for commission review an updated transmission and distribution storm protection plan that addresses each element specified by commission rule. The commission shall approve, modify, or deny each updated plan pursuant to the criteria used to review the initial plan.

(7) After a utility's transmission and distribution storm protection plan has been approved, proceeding with actions to implement the plan shall not constitute or be evidence of imprudence. The commission shall conduct an annual proceeding to determine the utility's prudently incurred transmission and distribution storm protection plan costs and allow the utility to recover such costs through a charge separate and apart from its base rates, to be referred to as the storm protection plan cost recovery clause. If the commission determines that costs were prudently incurred, those costs will not be subject to disallowance or further prudence review except for fraud, perjury, or intentional withholding of key information by the public utility.

(8) The annual transmission and distribution storm protection plan costs may not include costs recovered through the public utility's base rates and must be allocated to customer classes pursuant to the rate design most recently approved by the commission.

(9) If a capital expenditure is recoverable as a transmission and distribution storm protection plan 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 calculated at the public utility's weighted average cost of capital using the last approved return on equity.

(10) Beginning December 1 of the year after the first full year of implementation of a transmission and distribution storm protection plan and annually thereafter, the commission shall submit to the Governor, the President of the Senate, and the Speaker of the House of Representatives a report on the status of utilities' storm protection activities. The report shall include, but is not limited to, identification of all storm protection activities completed or planned for completion, the actual costs and rate impacts associated with completed activities as compared to the estimated costs and rate impacts for those activities, and the estimated costs and rate impacts associated with activities planned for completion.

(11) The commission shall adopt rules to implement and administer this section and shall propose a rule for adoption as soon as practicable after the effective date of this act, but not later than October 31, 2019.

Section 2. For the 2019-2020 fiscal year, the sums of \$261,270 in recurring funds and \$15,020 in nonrecurring funds from the Regulatory Trust Fund are appropriated to the Public Service Commission, and 4 full-time equivalent positions with associated salary rate of 180,583 are authorized for the purpose of implementing this act.

Section 3. This act shall take effect upon becoming a law.

Approved by the Governor June 27, 2019.

Filed in Office Secretary of State June 27, 2019.