

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Proposed amendment of Rule 25-6.0423,
F.A.C., Nuclear Power Cost Recovery, and
Rule 25-22.081, F.A.C., Contents of Petition.

DOCKET NO. 070672-EI
ORDER NO. PSC-07-0953-NOR-EI
ISSUED: November 29, 2007

The following Commissioners participated in the disposition of this matter:

LISA POLAK EDGAR, Chairman
MATTHEW M. CARTER II
KATRINA J. McMURRIAN
NANCY ARGENZIANO
NATHAN A. SKOP

NOTICE OF RULEMAKING

BY THE COMMISSION:

NOTICE is hereby given that the Florida Public Service Commission, pursuant to Section 120.54, Florida Statutes, has initiated rulemaking to amend Rules 25-6.0423 and 25-22.081, Florida Administrative Code, relating to nuclear power plant cost recovery and contents of petition.

The attached Notices of Rulemaking will appear in the December 7, 2007 edition of the Florida Administrative Weekly.

If timely requested, a hearing will be held at a time and place to be announced in a future notice.

Written requests for hearing and written comments or suggestions on the rules must be received by the Office of Commission Clerk, Florida Public Service Commission, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0862, no later than December 28, 2007.

By ORDER of the Florida Public Service Commission this 29th day of November, 2007.



ANN COLE
Commission Clerk

(S E A L)

DES

DOCUMENT NUMBER-DATE

10579 NOV 29 07

FPSC-COMMISSION CLERK

Notice of Proposed Rule

PUBLIC SERVICE COMMISSION

RULE NO: RULE TITLE

25-6.0423: Nuclear Power Plant Cost Recovery

PURPOSE AND EFFECT: The purpose of the rule amendment is to implement Section 366.93, F.S., to promote electric utility investment in Integrated Gasification Combined Cycle (IGCC) power plants by establishing cost recovery mechanisms that allow for the recovery in rates of all costs prudently incurred in the siting, design, licensing, and construction of an IGCC power plant. Docket No. 070672-EI.

SUMMARY: The rule is amended to extend the alternative cost recovery mechanisms developed for nuclear power plants to integrated gasification combined cycle (IGCC) power plants to allow the recovery of costs incurred in siting, design, licensing, and construction and allow for recovery in rates of all such prudently incurred costs.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: Investor owned electric utilities planning to build an IGCC plant should experience no significant additional costs as a result of the rule amendment and would benefit from the cost recovery mechanisms in the rule. Implementation of alternative cost recovery mechanisms will impact the timing of cost recovery from ratepayers, subject to Commission review.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 350.127(2), 366.05(1), FS

LAW IMPLEMENTED: 366.93, FS

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN FAW.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 48 hours before the workshop/meeting by contacting: Office of Commission Clerk, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0850 (850) 413-6770. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: David E. Smith, Office of General Counsel, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0850, (850) 413-6199.

THE FULL TEXT OF THE PROPOSED RULE IS:

25-6.0423 Nuclear or Integrated Gasification Combined Cycle Power Plant Cost Recovery.

(1) Purpose. The purpose of this rule is to establish alternative cost recovery mechanisms for the recovery of costs incurred in the siting, design, licensing, and construction of nuclear or integrated gasification combined cycle power plants in order to promote electric utility investment in nuclear or integrated gasification combined cycle power plants and allow for the recovery in rates of all such prudently incurred costs.

(2) Definitions. As used in this rule, the following definitions shall apply:

(a) "Nuclear power plant" ~~or "plant"~~ is an electrical power plant that utilizes nuclear materials as fuel, as defined in Sections 403.503(13) and 366.93(1)(c), F.S.

(b) "Integrated gasification combined cycle power plant" is an electrical power plant that uses synthesis gas produced by integrated gasification technology, as defined in Sections 403.503(13) and 366.93(c), F.S.

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

(d)(b) “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 or integrated gasification combined cycle power plant as defined in Section 366.93(1)(a) , F.S.

(e)(e) “Site selection.” A site will be deemed to be selected upon the filing of a petition for a determination of need for a nuclear or integrated gasification combined cycle power plant pursuant to Section 403.519 , F.S.

(f)(d) “Site selection costs” are costs that are expended prior to the selection of a site.

(g)(e) “Pre-construction costs” are costs that are expended after a site has been selected in preparation for the construction of a nuclear or integrated gasification combined cycle power plant, incurred up to and including the date the utility completes site clearing work.

(h)(f) Site selection costs and pre-construction costs include, but are not limited to: any and all costs associated with preparing, reviewing and defending a Combined Operating License (COL) application for a nuclear power plant; costs associated with site and technology selection; costs of engineering, designing, and permitting the nuclear or integrated gasification combined cycle power plant; costs of clearing, grading, and excavation; and costs of on-site construction facilities (i.e., construction offices, warehouses, etc.).

(i)(g) “Construction costs” are costs that are expended to construct the nuclear or integrated gasification combined cycle power plant including, but not limited to, the costs of constructing ~~nuclear~~ power plant buildings and all associated permanent structures, equipment and systems.

(3) No change.

(4) Site Selection Costs. After the Commission has issued a final order granting a determination of need for a ~~nuclear~~ power plant pursuant to Section 403.519, F.S., a utility may file a petition for a separate proceeding, to recover prudently incurred site selection costs. This separate proceeding will be limited to only those issues necessary for the determination of prudence and alternative method for recovery of site selection costs of a ~~nuclear~~ power plant.

(5) Pre-Construction Costs and Carrying Costs on Construction Cost Balance. After the Commission has issued a final order granting a determination of need for a ~~nuclear~~ power plant pursuant to Section 403.519 , F.S., a utility may petition the Commission for recovery of pre-construction costs and carrying costs of construction cost balance as follows:

(a) – 2. No change.

(b) Carrying Costs on Construction Cost Balance. A utility is entitled to recover, through the utility’s Capacity Cost Recovery Clause, the carrying costs on the utility’s annual projected construction cost balance associated with the ~~nuclear~~ power plant. The actual carrying costs recovered through the Capacity Cost Recovery Clause shall reduce the allowance for funds used during construction (AFUDC) that would otherwise have been recorded as a cost of construction eligible for future recovery as plant in service.

1. For ~~nuclear~~ power plant need petitions submitted on or before December 31, 2010, the associated carrying costs shall be computed based on the pretax AFUDC rate in effect on June ~~12, 2007~~19, 2006;

2. For ~~nuclear~~ power plant need petitions submitted after December 31, 2010, the utility’s pretax AFUDC rate in effect at the time the petition for determination of need is filed is presumed to be appropriate unless the Commission determines otherwise in its need determination order;

3. No change.

(c) Capacity Cost Recovery Clause for Nuclear or Integrated Gasification Combined Cycle Power Plant Costs.

1. Each year, a utility shall submit, for Commission review and approval, as part of its Capacity Cost Recovery Clause filings:

a. – 2. No change.

3. The Commission shall include those costs it determines, pursuant to this subsection, to be reasonable or prudent in setting the Capacity Cost Recovery Clause factor in the annual Fuel and Purchased Power Cost Recovery proceedings. Such prior year actual costs associated with ~~nuclear~~ power plant construction subject to the annual proceeding shall not be subject to disallowance or further prudence review.

4. The final true-up for the previous year, actual/estimated true-up for the current year, and subsequent year's projected ~~nuclear~~ power plant costs as approved by the Commission pursuant to subparagraph (5)(c)2. will be included for cost recovery purposes as a component of the following year's capacity cost recovery factor in the Fuel and Purchased Power Cost Recovery. The utility must file all necessary revisions to the fuel and purchased power cost recovery filings no later than October 15 of the current year.

5. By May 1 of each year, along with the filings required by this paragraph, a utility shall submit for Commission review and approval a detailed analysis of the long-term feasibility of completing the power ~~nuclear~~ plant.

(6) Failure to Enter Commercial Service. Following the Commission's issuance of a final order granting a determination of need for the ~~nuclear~~ power plant, in the event the utility elects not to complete or is precluded from completing construction of the ~~nuclear~~ power plant, the utility shall be allowed to recover all prudent site selection costs, pre-construction costs, and construction costs.

(a) – (b) No change.

(7) Commercial Service. As operating units or systems associated with the ~~nuclear~~ power plant and the ~~nuclear~~ power plant itself are placed in commercial service:

(a) No change.

(b) The utility shall calculate the increase in base rates resulting from the jurisdictional annual base revenue requirements for the ~~nuclear~~ power plant in conjunction with the Capacity Cost Recovery Clause projection filing for the year the ~~nuclear~~ power plant is projected to achieve commercial operation. The increase in base rates will be based on the annualized base revenue requirements for the ~~nuclear~~ power plant for the first 12 months of operations consistent with the cost projections filed in conjunction with the Capacity Cost Recovery Clause projection filing.

(c) At such time as the ~~nuclear~~ power plant is included in base rates, recovery through the Capacity Cost Recovery Clause will cease, except for the difference between actual and projected construction costs as provided in subparagraph (5)(c)4. above.

(d) No change.

(e) The jurisdictional net book value of any existing generating plant that is retired as a result of operation of the ~~nuclear~~ power plant shall be recovered through an increase in base rate charges over a period not to exceed 5 years. At the end of the recovery period, base rates shall be reduced by an amount equal to the increase associated with the recovery of the retired generating plant.

(8) – (e) No change.

(f) Annual Reports Required by Rule 25-6.135, F.A.C. On an annual basis following issuance of the final order granting a determination of need and until commercial operation of the ~~nuclear~~ power plant, a utility shall include the budgeted and actual costs as compared to the estimated in-service costs of the ~~nuclear~~ power plant as

ORDER NO. PSC-07-0953-NOR-EI

DOCKET NO. 070672-EI

PAGE 5

provided in the petition for need determination in its annual report filed pursuant to Rule 25-6.135, F.A.C. The estimates provided in the petition for need determination are non-binding estimates. Some costs may be higher than estimated and other costs may be lower. A utility shall provide such revised estimated in-service costs as may be necessary in its annual report.

Specific Authority 350.127(2), 366.05(1) FS.

Law Implemented 366.93 FS.

History--New 4-8-07, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Kathy Lewis, Division of Economic Regulation, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0850, (850) 413-6594.

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Florida Public Service Commission

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 20, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 31, 2007.

Notice of Proposed Rule

PUBLIC SERVICE COMMISSION

RULE NO: RULE TITLE

25-22.081: Contents of Petition

PURPOSE AND EFFECT: The purpose of the rule is to implement 2007 amendments to 403.519, F.S., dealing with the contents of an electric utility's petition for determination of need and extending the statute's applicability to integrated gasification combined cycle (IGCC) power plants. Docket No. 070672-EI.

SUMMARY: The rule is amended to include IGCC power plants, and to specify that a petition for determination of need must include information to allow the Commission to consider the electric utility's use of conservation measures and renewable energy sources and technologies in the determining need for new generation capacity.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The additional costs to electric utilities to comply with the rule should be minimal. Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

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SPECIFIC AUTHORITY: 350.127(2), 366.05(1), FS

LAW IMPLEMENTED: 403.519, FS

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THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: David E. Smith, Office of General Counsel, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0850, (850) 413-6199.

THE FULL TEXT OF THE PROPOSED RULE IS:

25-22.081 Contents of Petition.

(1) Petition for Fossil, Integrated Gasification Combined Cycle, or Nuclear Fuel Electric Plants. Petitions submitted to commence a proceeding to determine the need for a proposed fossil, integrated gasification combined cycle, or nuclear fuel electrical power plant or responses to the Commission's order commencing such a proceeding shall comply with the other requirements of Chapter 25-22, F.A.C., as to form and style except that a utility may, at its option, submit its petition in the same format and style as its application for site certification pursuant to Sections 403.501 through 403.517, F.S., so long as the informational requirements of this rule and Chapter 25-22, F.A.C., are satisfied. ~~The petition,~~ to allow the Commission to take into account the need for electric system reliability and integrity, the need for adequate reasonable cost electricity, the need for fuel diversity and supply reliability, ~~and the need to determine whether the proposed plant is the most cost effective alternative available, and the need to~~ determine whether renewable energy sources and technologies, as well as conservation measures, are utilized to the extent reasonably available, the petition shall contain the following information:

(a) – (b) No change.

(c) A statement of the specific conditions, contingencies or other factors which indicate a need for the proposed electrical power plant including the general time within which the generating units will be needed. Documentation shall include historical and forecasted summer and winter peaks, number of customers, net energy for load, and load factors with a discussion of the more critical operating conditions. Load forecasts shall identify the model or models on which they were based and shall include sufficient detail to permit analysis of the model or models. If a determination is sought on some basis in addition to or in lieu of capacity needs, such as fuel diversity, then detailed analysis and supporting documentation of the projected costs and benefits is required. Where a determination is sought for a nuclear or integrated gasification combined cycle power plant, the nonbinding estimate provided for in paragraph (2)(b) below shall be considered to be sufficient for purposes of this paragraph.

(d) A summary discussion of the major available generating alternatives which were examined and evaluated in arriving at the decision to pursue the proposed generating unit. The discussion shall include a general description of the generating unit alternatives, including purchases where appropriate; and an evaluation of each alternative in terms of economics, reliability, long-term flexibility and usefulness and any other relevant factors such as fuel diversity and fuel supply reliability. These major generating technologies generally available and potentially appropriate for the timing of the proposed plant and other conditions specific to it shall be discussed. In addition, each investor-owned utility shall include a detailed description of the selection process used and a detailed description of the generating unit alternatives proposed by each finalist, if any, selected to participate in subsequent contract negotiations pursuant to Rule 25-22.082, F.A.C. No provision of Rule 25-22.082, F.A.C., shall be applicable to a nuclear or integrated gasification combined cycle power plant sited after June 19, 2006.

(e) – (g) No change.

(2) In addition to complying with paragraphs (1)(a) through (g) above, a nuclear or integrated gasification combined cycle power plant petition shall contain the following information:

(a) The description required by Section 403.519(4)(a)2., F.S., including a discussion about how the proposed nuclear or integrated gasification combined cycle power plant will enhance the electric supply reliability by reducing the exposure to fossil fuel supply disruptions;

(b) A description of and a nonbinding estimate of the cost of the proposed nuclear or integrated gasification combined cycle power plant, including associated transmission facilities;

(c) The annualized base revenue requirement for the first 12 months of operation of the proposed nuclear or integrated gasification combined cycle power plant, based on the nonbinding estimate of the cost provided pursuant to paragraph (2)(b) above; and

(d) No change.

Specific Authority 350.127(2), 366.05(1) FS.

Law Implemented 403.519 FS.

History–New 12-22-81, Formerly 25-2.133, 25-22.81, Amended 1-10-94, 2-20-07, ____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Kathy Lewis, Division of Economic Regulation, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0850, (850) 413-6594.

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