

## 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.

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(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 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

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## Notices Submitted to ACW or Confirmed by ACW

### Notices Submitted to ACW

ID	Rule No/ Organization	Rule Title	Section	Issue	Date
4952837	11/27/2007	Florida Public Service Commission	Meeting	12/7/2007 Vol. 33/49	11/28/2007
4943525	25-4.042,...	Extended Area Service, Application and Scope, Conditions for Approval, Filing Requirements, Community of Interest Considerations, Hearings, Subscriber Survey, Alternatives to Non-Optional Extended Area Service	Proposed	12/7/2007 Vol. 33/49	11/28/2007
4941779	25-4.053,...	Application and Scope, Maintenance of Records, Classification of Exchanges, Reclassification of Exchanges	Proposed	12/7/2007 Vol. 33/49	11/28/2007
4917238	25-22.081	Contents of Petition	Proposed	12/7/2007 Vol. 33/49	11/28/2007
✓ 4915783	25-6.0423	Nuclear Power Plant Cost Recovery	Proposed	12/7/2007 Vol. 33/49	11/28/2007
4929266	11/16/2007	Florida Public Service Commission	Meeting	11/30/2007 Vol. 33/48	11/19/2007
4929848	11/19/2007	FLORIDA PUBLIC SERVICE COMMISSION	Meeting	11/30/2007 Vol. 33/48	11/19/2007
4930139	11/19/2007	FLORIDA PUBLIC SERVICE COMMISSION	Meeting	11/30/2007 Vol. 33/48	11/19/2007

### Notices Confirmed by ACW

None.

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