

ORIGINAL

STATE OF FLORIDA

COMMISSIONERS:
LISA POLAK EDGAR
J. TERRY DEASON
ISILIO ARRIAGA
MATTHEW M. CARTER II
KATRINA J. TEW



OFFICE OF THE GENERAL COUNSEL
MICHAEL G. COOPER
GENERAL COUNSEL
(850) 413-6199
RECEIVED-FPSC
06 DEC 21 PM 2:27

Public Service Commission

COMMISSION
CLERK

December 20, 2006

Mr. Scott Boyd, Executive Director
Joint Administrative Procedures
Committee
Room 120 Holland Building
Tallahassee, FL 32399-1300

RE: Docket No. 060508-EI – Proposed adoption of new rule regarding nuclear power
plant cost recovery.

Dear Mr. Boyd:

Enclosed are the following materials concerning the above referenced proposed rules:

- 1. A copy of the rule.
- 2. A copy of the F.A.W. notice.
- 3. A statement of facts and circumstances justifying the proposed rule.
- 4. A federal standards statement.
- 5. A statement of estimated regulatory costs.

CMP _____
 COM _____
 CTR _____
 ECR _____
 GCL _____
 OPC _____
 RCA _____
 SCR _____
 SGA _____
 SEC 1
 OTH _____

If there are any questions with respect to this rule, please do not hesitate to call me.

Sincerely,

Larry D. Harris
Associate General Counsel

060508 JAPC.lhd.doc
Enclosures
cc: Division of the Commission Clerk
and Administrative Services

Rule 25-6.0423

1 25-6.0423 Nuclear Power Plant Cost Recovery

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

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

7 (a) "Nuclear power plant" or "plant" is an electrical power plant that utilizes nuclear
8 materials as fuel, as defined in Section 403.503(13), Florida Statutes and Section 366.93(1)(c).

9 (b) "Cost" includes, but is not limited to, all capital investments including rate of
10 return, any applicable taxes and all expenses, including operation and maintenance expenses,
11 related to or resulting from the siting, licensing, design, construction, or operation of the
12 nuclear power plant as defined in Section 366.93(1)(a).

13 (c) "Site selection." A site will be deemed to be selected upon issuance of a final
14 order granting a petition for a determination of need for a nuclear power plant pursuant to
15 Section 403.519, Florida Statutes.

16 (d) "Site selection costs" are costs that are expended prior to the selection of a site.
17 These costs may include, but are not limited to: any and all costs associated with preparing,
18 reviewing and defending a Combined Operating License (COL) application for a nuclear
19 power plant; costs of engineering, designing, and permitting the nuclear power plant; and costs
20 associated with site and technology selection.

21 (e) "Pre-construction costs" are costs that are expended after a site has been selected
22 in preparation for the construction of a nuclear power plant, incurred up to and including the
23 date the utility completes site clearing work. Pre-construction costs may include, but are not
24 limited to: any and all costs associated with preparing, reviewing and defending a Combined

25 CODING: Words underlined are additions; words in ~~struck through~~ type are deletions from existing law.

1 Operating License (COL) application for a nuclear power plant; costs of engineering,
2 designing, and permitting the nuclear power plant; costs of clearing, grading, and excavation;
3 and costs of on-site construction facilities (i.e., construction offices, warehouses, etc.).

4 (f) "Construction costs" are costs that are expended to construct the nuclear power
5 plant including, but not limited to, the costs of constructing nuclear power plant buildings and
6 all associated permanent structures, equipment and systems.

7 (3) Deferred Accounting Treatment. Site selection and pre-construction costs shall be
8 afforded deferred accounting treatment and shall, except for projected costs recovered on a
9 projected basis in one annual cycle, accrue a carrying charge equal to the utility's allowance
10 for funds used during construction (AFUDC) rate until recovered in rates.

11 (4) Site Selection Costs. After the Commission has issued a final order granting a
12 determination of need for a nuclear power plant pursuant to Section 403.519, Florida Statutes,
13 a utility may file a petition for a limited proceeding, pursuant to Section 366.076, Florida
14 Statutes, to recover prudently incurred site selection costs.

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

19 (a) Pre-Construction Costs. A utility is entitled to recover, through the Capacity Cost
20 Recovery Clause, its actual and projected pre-construction costs. The utility may also recover
21 the related carrying charge for those costs not recovered on a projected basis. Such costs will
22 be recovered on an annual basis, or may, as approved by the Commission, be recovered over a
23 greater period of years.

24 1. Actual pre-construction costs incurred by a utility prior to the issuance of a final
25

CODING: Words underlined are additions; words in ~~struck through~~ type are deletions from existing law.

1 order granting a determination of need pursuant to Section 403.519, Florida Statutes, shall be
2 included in the initial filing made by a utility under this subsection for review, approval, and a
3 finding with respect to prudence;

4 2. The Commission shall include pre-construction costs determined to be reasonable
5 and prudent as a factor in the annual Capacity Cost Recovery Clause proceedings, as specified
6 in Paragraph 5(c)2. of this rule. Such factor shall not be subject to disallowance or further
7 prudence review in that proceeding.

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

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

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

21 3. The Commission shall include carrying costs on the construction cost balance
22 determined to be reasonable and prudent as a factor in the annual Capacity Cost Recovery
23 Clause proceedings, as specified in Paragraph (5)(c) of this rule. Such factor shall not be
24 subject to disallowance or further prudence review in that proceeding.

25 CODING: Words underlined are additions; words in ~~struck-through~~ type are deletions from existing law.

1 (c) Capacity Cost Recovery Clause for Nuclear Costs.

2 1. By May 1 of each year, a utility shall submit, for Commission review and approval,
3 as part of its Capacity Cost Recovery Clause filings:

4 a. True-Up for Previous Years. A utility shall submit its final true-up of pre-
5 construction expenditures, based on actual preconstruction expenditures for the prior year and
6 previously filed expenditures for such prior year and a description of the pre-construction
7 work actually performed during such year; or, once construction begins, its final true-up of
8 carrying costs on its construction expenditures, based on actual carrying costs on construction
9 expenditures for the prior year and previously filed carrying costs on construction
10 expenditures for such prior year and a description of the construction work actually performed
11 during such year.

12 b. True-Up and Projections for Current Year. A utility shall submit for Commission
13 review and approval its actual/estimated true-up of projected pre-construction expenditures
14 based on a comparison of current year actual/estimated expenditures and the previously-filed
15 estimated expenditures for such current year and a description of the pre-construction work
16 projected to be performed during such year; or, once construction begins, its actual/estimated
17 true-up of projected carrying costs on construction expenditures based on a comparison of
18 current year actual/estimated carrying costs on construction expenditures and the previously
19 filed estimated carrying costs on construction expenditures for such current year and a
20 description of the construction work projected to be performed during such year.

21 c. Projected Costs for Subsequent Years. A utility shall submit, for Commission
22 review and approval, its projected pre-construction expenditures for the subsequent year and a
23 description of the pre-construction work projected to be performed during such year; or, once
24 construction begins, its projected construction expenditures for the subsequent year and a

25

CODING: Words underlined are additions; words in ~~struck through~~ type are deletions from existing law.

1 description of the construction work projected to be performed during such year.

2 2. The Commission shall, prior to August 15 of each year, conduct a hearing to
3 determine the reasonableness of projected pre-construction expenditures and the prudence of
4 actual pre-construction expenditures expended by the utility; or, once construction begins, to
5 determine the reasonableness of carrying costs on projected construction expenditures and the
6 prudence of actual carrying costs on construction expenditures expended by the utility.
7 Within 30 days of the Commission's vote, the Commission shall enter its order. In making its
8 determination of reasonableness and prudence the Commission shall apply the standard
9 provided pursuant to Section 403.519(4)(e), Florida Statutes.

10 3. The Commission shall include those costs it determines, pursuant to this subsection,
11 to be reasonable and prudent as a factor in the annual Capacity Cost Recovery Clause
12 proceedings. Such factor shall not be subject to disallowance or further prudence review in
13 that proceeding.

14 4. The final true-up for the previous year, actual/estimated true-up for the current year,
15 and subsequent year's projected nuclear power plant costs as approved by the Commission
16 pursuant to subparagraph (5)(c)2. will be included for cost recovery purposes as a component
17 of the over/under recovered balance to be included in the following year's nuclear power plant
18 cost recovery proceeding for the Capacity Cost Recovery Clause.

19 5. By May 1 of each year, along with the filings required by this paragraph, a utility
20 shall submit for Commission review and approval a detailed analysis of the long-term
21 feasibility of completing the nuclear plant, taking into account significant changes, if any, in
22 the factors considered by the Commission in granting the determination of need for the
23 proposed plant.

24 (6) Failure to Enter Commercial Service. Following the Commission's issuance of a
25

CODING: Words underlined are additions; words in ~~struck through~~ type are deletions from existing law.

1 final order granting a determination of need for the nuclear power plant, in the event the utility
2 elects not to complete or is precluded from completing construction of the nuclear power
3 plant, the utility shall be allowed to recover all prudent site selection costs, pre-construction
4 costs, and construction costs.

5 (a) The utility shall recover such costs through the Capacity Cost Recovery Clause
6 over a period equal to the period during which the costs were incurred or 5 years, whichever is
7 greater.

8 (b) The amount recovered under this section will be the remaining unrecovered
9 Construction Work in Progress (CWIP) balance at the time of abandonment and future
10 payment of all outstanding costs. The unrecovered balance during the recovery period will
11 accrue interest at the utility's overall pretax weighted average midpoint cost of capital on a
12 Commission adjusted basis as reported by the utility in its Earnings Surveillance Report filed
13 in December of the prior year, utilizing the midpoint of return on equity (ROE) range or ROE
14 approved for other regulatory purposes, as applicable.

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

17 (a) The utility shall file a petition for Commission approval of the base rate increase
18 pursuant to Section 366.93(4), Florida Statutes, separate from any cost recovery clause
19 petitions, that includes any and all costs reflected in such increase, whether or not those costs
20 have been previously reviewed by the Commission; provided, however, that any actual costs
21 previously reviewed and determined to be prudent in the Capacity Cost Recovery Clause, to
22 which administrative finality has attached, shall not be subject to disallowance or further
23 prudence review.

24 (b) The utility shall calculate the increase in base rates resulting from the jurisdictional
25

CODING: Words underlined are additions; words in ~~struck through~~ type are deletions from existing law.

1 annual base revenue requirements for the nuclear power plant in conjunction with the Capacity
2 Cost Recovery Clause projection filing for the year the nuclear power plant is projected to
3 achieve commercial operation. The increase in base rates will be based on the annualized base
4 revenue requirements for the nuclear power plant for the first 12 months of operations
5 consistent with the cost projections filed in conjunction with the Capacity Cost Recovery
6 Clause projection filing.

7 (c) At such time as the nuclear power plant is included in rate base, recovery through
8 the Capacity Cost Recovery Clause will cease, except for the difference between actual and
9 projected construction costs as provided in subparagraph (5)(c)3. above.

10 (d) The rate of return on capital investments shall be calculated using the utility's most
11 recent actual Commission adjusted basis overall weighted average rate of return as reported by
12 the utility in its Earnings Surveillance Report prior to the commercial in-service date of the
13 nuclear power plant. The return on equity cost rate used shall be the midpoint of the last
14 Commission approved range for return on equity or the last Commission approved return on
15 equity cost rate established for use for all other regulatory purposes, as appropriate.

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

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

25
CODING: Words underlined are additions; words in ~~struck through~~ type are deletions from existing law.

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

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

6 Law Implemented 366.93 FS.

7 History: New _____.

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

CODING: Words underlined are additions; words in ~~struck through~~ type are deletions from existing law.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: The SERC states there will be increased costs to utilities from preparing and presenting nuclear power plant costs for annual Commission review. There will be significant benefits to utilities from the certainty associated with the recovery of these costs, both before the plant goes into commercial service and after the plant is completed. While consumers of electricity will benefit from fuel diversity and price stability once the nuclear plant goes into commercial service, consumers will begin paying these costs through rates prior to the receipt of the benefits.

Any person who wishes to provide information regarding the statement of estimated regulatory costs, or to 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

WRITTEN COMMENTS OR SUGGESTIONS ON THE PROPOSED RULE MAY BE SUBMITTED TO THE FPSC, DIVISION OF THE COMMISSION CLERK AND ADMINISTRATIVE SERVICES, WITHIN 21 DAYS OF THE DATE OF THIS NOTICE FOR INCLUSION IN THE RECORD OF THE PROCEEDING.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Larry Harris, Office of General Counsel, Florida Public Service Commission, 2540 Shumard Oak Blvd., Tallahassee, Florida 32399-0862, (850) 413-6076.

THE FULL TEXT OF THE PROPOSED RULE IS:

25-6.0423 Nuclear 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 power plants in order to promote electric utility investment in nuclear 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 Section 403.503(13), Florida Statutes and Section 366.93(1)(c).

(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 power plant as defined in Section 366.93(1)(a).

(c) "Site selection." A site will be deemed to be selected upon issuance of a final order granting a petition for a determination of need for a nuclear power plant pursuant to Section 403.519, Florida Statutes.

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

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

(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 power plant; costs of clearing, grading, and excavation; and costs of on-site construction facilities (i.e., construction offices, warehouses, etc.).

(g) "Construction costs" are costs that are expended to construct the nuclear power plant including, but not limited to, the costs of constructing nuclear power plant buildings and all associated permanent structures, equipment and systems.

(3) Deferred Accounting Treatment. Site selection and pre-construction costs shall be afforded deferred accounting treatment and shall, except for projected costs recovered on a projected basis in one annual cycle, accrue a carrying charge equal to the utility's allowance for funds used during construction (AFUDC) rate until recovered in rates.

(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, Florida Statutes, 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 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, Florida Statutes, a utility may petition the Commission for recovery of pre-construction costs and carrying costs of construction cost balance as follows:

(a) Pre-Construction Costs. A utility is entitled to recover, through the Capacity Cost Recovery Clause, its actual and projected pre-construction costs. The utility may also recover the related carrying charge for those costs not recovered on a projected basis. Such costs will be recovered on an annual basis, or may, as proposed by the utility in its petition or any other party and approved by the Commission, be recovered over a greater period of years.

1. Actual pre-construction costs incurred by a utility prior to the issuance of a final order granting a determination of need pursuant to Section 403.519, Florida Statutes, shall be included

in the initial filing made by a utility under this subsection for review, approval, and a finding with respect to prudence.

2. The Commission shall include pre-construction costs determined to be reasonable and prudent in setting the factor in the annual Capacity Cost Recovery Clause proceedings, as specified in Paragraph 5(c)2. of this rule. Such costs shall not be subject to disallowance or further prudence review in that proceeding.

(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 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. The Commission shall include carrying costs on the balance of construction costs determined to be reasonable and prudent in setting the factor in the annual Capacity Cost Recovery Clause proceedings, as specified in Paragraph (5)(c) of this rule. Such factor shall not be subject to disallowance or further prudence review in that proceeding.

(c) Capacity Cost Recovery Clause for Nuclear Costs.

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

a. True-Up for Previous Years. By April 1, a utility shall submit its final true-up of pre-construction expenditures, based on actual preconstruction expenditures for the prior year and previously filed expenditures for such prior year and a description of the pre-construction work actually performed during such year; or, once construction begins, its final true-up of carrying costs on its construction expenditures, based on actual carrying costs on construction expenditures for the prior year and previously filed carrying costs on construction expenditures for such prior year and a description of the construction work actually performed during such year.

b. True-Up and Projections for Current Year. By May 1, a utility shall submit for Commission review and approval its actual/estimated true-up of projected pre-construction expenditures based on a comparison of current year actual/estimated expenditures and the previously-filed estimated expenditures for such current year and a description of the pre-construction work projected to be performed during such year; or, once construction begins, its actual/estimated true-up of projected carrying costs on construction expenditures based on a comparison of current year actual/estimated carrying costs on construction expenditures and the previously filed estimated carrying costs on construction expenditures for such current year and a description of the construction work projected to be performed during such year.

c. Projected Costs for Subsequent Years. By May 1, a utility shall submit, for Commission review and approval, its projected pre-construction expenditures for the subsequent year and a description of the pre-construction work projected to be performed during such year; or, once construction begins, its projected construction expenditures for the subsequent year and a description of the construction work projected to be performed during such year.

2. The Commission shall, prior to August 15 of each year, conduct a hearing to determine the reasonableness of projected pre-construction expenditures and the prudence of actual pre-construction expenditures expended by the utility; or, once construction begins, to determine the reasonableness of carrying costs on projected construction expenditures and the prudence of actual carrying costs on construction expenditures expended by the utility. Within 30 days of the Commission's vote, the Commission shall enter its order. One year after the true-up of actual carrying charges, the Commission shall make an annual prudence determination of the annual actual construction costs. To facilitate this determination, the Commission shall conduct an on-going auditing and monitoring program of construction costs and related contracts pursuant to Section 366.08, Florida Statutes. In making its determination of reasonableness and prudence the Commission shall apply the standard provided pursuant to Section 403.519(4)(e), Florida Statutes.

3. The Commission shall include those costs it determines, pursuant to this subsection, to be reasonable and prudent in setting the factor in the annual Capacity Cost Recovery Clause proceedings. Such costs shall not be subject to disallowance or further prudence review in that proceeding.

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 over/under recovered balance to be included in the following year's nuclear power plant cost recovery proceeding for the Capacity Cost Recovery Clause.

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 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) The utility shall recover such costs through the Capacity Cost Recovery Clause over a period equal to the period during which the costs were incurred or 5 years, whichever is greater.

(b) The amount recovered under this section will be the remaining unrecovered Construction Work in Progress (CWIP) balance at the time of abandonment and future payment of all outstanding costs and any other prudent and reasonable exit costs. The unrecovered balance during the recovery period will accrue interest at the utility's overall pretax weighted average midpoint cost of capital on a Commission adjusted basis as reported by the utility in its Earnings Surveillance Report filed in December of the prior year, utilizing the midpoint of return on equity (ROE) range or ROE approved for other regulatory purposes, as applicable.

(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) The utility shall file a petition for Commission approval of the base rate increase pursuant to Section 366.93(4), Florida Statutes, separate from any cost recovery clause petitions, that includes any and all costs reflected in such increase, whether or not those costs have been previously reviewed by the Commission; provided, however, that any actual costs previously reviewed and determined to be prudent in the Capacity Cost Recovery Clause, to which administrative finality has attached, shall not be subject to disallowance or further prudence review.

(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) The rate of return on capital investments shall be calculated using the utility's most recent actual Commission adjusted basis overall weighted average rate of return as reported by the utility in its most recent Earnings Surveillance Report prior to the filing of a petition as provided in subparagraph (7)(a). The return on equity cost rate used shall be the midpoint of the last Commission approved range for return on equity or the last Commission approved return on equity cost rate established for use for all other regulatory purposes, as appropriate.

(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) 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)

Law Implemented 366.93 FS

History: New

NAME OF PERSON ORIGINATING PROPOSED RULE: Kathy Lewis.

NAME OF SUPERVISOR OR PERSONS WHO APPROVED THE PROPOSED RULE:

Florida Public Service Commission.

DATE PROPOSED RULE APPROVED: December 19, 2006

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: Volume 32,
Number 31, August 4, 2006

If any person decides to appeal any decision of the Commission with respect to any matter considered at the rulemaking hearing, if held, a record of the hearing is necessary. The appellant must ensure that a verbatim record, including testimony and evidence forming the basis of the appeal is made. The Commission usually makes a verbatim record of rulemaking hearings.

Any person requiring some accommodation at this hearing because of a physical impairment should call the Division of the Commission Clerk and Administrative Services at (850) 413-6770 at least 48 hours prior to the hearing. Any person who is hearing or speech impaired should contact the Florida Public Service Commission by using the Florida Relay Service, which can be reached at: 1-800-955-8771 (TDD).

STATEMENT OF FACTS AND CIRCUMSTANCES
JUSTIFYING RULE

The Florida legislature codified its desire to promote fuel diversity and supply reliability by promoting investment in nuclear power in Section 366.93, F.S. One way to do that is to ensure that the costs of planning and constructing a nuclear power plant will be recovered in a fair and timely manner. The PSC was directed to adopt rules to facilitate the cost recovery of new nuclear plants.

STATEMENT ON FEDERAL STANDARDS

There is no federal standard on the same subject.



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: December 8, 2006
TO: Office of General Counsel (Harris)
FROM: Division of Economic Regulation (Hewitt) *BA* *U* *19*
RE: Statement of Estimated Regulatory Costs for Proposed Rule 25-6.0423, F.A.C.,
Nuclear Power Plant Cost Recovery; Docket Number 060508-EI

SUMMARY OF THE RULE

The proposed Rule 25-6.0423, F.A.C, would implement Section 366.93, Florida Statutes, which gives detailed requirements for creating an alternative cost recovery mechanism for all prudently incurred costs for investment in new nuclear power plants. These costs would include those expenditures for siting, design, licensing, and construction of a nuclear power plant. The proposed rule would allow preconstruction costs to be recovered through the Capacity Cost Recovery Clause (CCR). When the nuclear power plant is placed in service, the utility would be allowed to increase base rate charges by the projected annual revenue requirements.

ESTIMATED NUMBER OF ENTITIES REQUIRED TO COMPLY AND GENERAL DESCRIPTION OF INDIVIDUALS AFFECTED

Currently, two electric investor owned utilities (IOUs) have built nuclear plants and have expressed interest in building new nuclear plants; but any of the five IOUs in Florida planning to build a nuclear plant would be affected by the proposed rule. The IOUs sell electricity to industrial, commercial, and residential customers throughout the state.

RULE IMPLEMENTATION AND ENFORCEMENT COST AND IMPACT ON REVENUES FOR THE AGENCY AND OTHER STATE AND LOCAL GOVERNMENT ENTITIES

The Commission would have some administration costs monitoring and reviewing new nuclear plant expenditures. There would be extra filings and a separate hearing in the CCR procedure yearly. These tasks would be done with existing staff. There should be no impact on agency revenues.

There should be no negative impact on the revenues of other state and local government entities from the adoption of the rule. However, these other state and local government entities could see their utility bills rise if preconstruction costs are passed through the CCR Clause as provided for by the statutes. These entities could possibly benefit as customers of an IOU building a nuclear plant with lower electricity costs and fuel diversity.

ESTIMATED TRANSACTIONAL COSTS TO INDIVIDUALS AND ENTITIES

Sections 366.936(2)(a) and (b), Florida Statutes, provide for the recovery of preconstruction costs and the carrying costs on the utility's projected construction costs through the CCRC. Staff also recommends the Commission implement alternative cost recovery mechanisms to allow site selection costs to be recovered prior to the nuclear plant being placed in commercial service. As a result, small businesses, small cities, small counties, and individual customers will see increased electricity rates prior to the plant being placed in commercial service. Ratepayers also face the risk that the nuclear plant will not be completed, yet the statute mandates that the costs of the nuclear power plant be recovered through rates. These costs are consistent with the statutory requirements.

IOUs should have no significant additional costs because of the new rule. IOUs currently must show that expenditures are reasonable and prudently incurred before being allowed to be recovered. There may be some additional accounting and filing costs associated with new nuclear plant planning and construction expenditures that would be recovered through the CCR clause. There would be an additional hearing for Commission review of associated costs of a new nuclear plant before they are passed through to customers. There would be a significant benefit to the utility in being able to collect preconstruction costs through the CCR clause before a plant is in service. Also, IOUs would benefit from knowing that reasonable and prudent investment in new nuclear plants will be allowed to be recovered in rates as well as the recovery of sunk costs if a plant is not completed. This could encourage the building of new plants. The only estimated additional costs reported by one company would be \$10,000 per year for on-going costs. The financial risk in IOUs planning on building a nuclear plant will be significantly reduced as a result of statute and this rule.

Small businesses, small cities, small counties, and individual customers should benefit, however, if an IOU builds a nuclear plant with lower electricity costs and increased fuel diversity. While these benefits will not be received until the nuclear plant is placed in service, they can be expected to be significant. Long term benefits of diversification of energy supply should mitigate future impacts in fuel price volatility.

IMPACT ON SMALL BUSINESSES, SMALL CITIES, OR SMALL COUNTIES

There could be a negative impact on the utility bill of small businesses, small cities, or small counties as customers if preconstruction costs are passed on before the benefits of a new plant offset that impact. Also, a negative impact would occur if a nuclear plant was started and not finished and the sunk costs were recovered through their electricity bills. They should benefit as customers of an IOU that builds a nuclear plant with resulting lower electricity costs and fuel diversity.

CH:kb

cc: Mary Andrews Bane
Chuck Hill
Kathy Lewis
Hurd Reeves