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CERTIFICATION OF

PUBLIC SERVICE COMMISSION ADMINISTRATIVE RULES
COMMISSION CLERK

FILED WITH THE

DEPARTMENT OF STATE

I do hereby certify:

/x/ (1) That all statutory rulemaking requirements of Chapter 120, F.S., have been complied with; and

/x/ (2) There is no administrative determination under subsection 120.56(2), F.S., pending on any rule covered by this certification; and

/x/ (3) All rules covered by this certification are filed within the prescribed time limitations of paragraph 120.54(3)(e), F.S. They are filed not less than 28 days after the notice required by paragraph 120.54(3)(a), F.S., and;

/x/ (a) Are filed not more than 90 days after the notice; or

// (b) Are filed not more than 90 days after the notice not including days an administrative determination was pending; or

// (c) Are filed more than 90 days after the notice, but not less than 21 days nor more than 45 days from the date of publication of the notice of change; or

// (d) Are filed more than 90 days after the notice, but not less than 14 nor more than 45 days after the adjournment of the final public hearing on the rule; or

// (e) Are filed more than 90 days after the notice, but within 21 days after the date of receipt of all material authorized to be submitted at the hearing; or

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// (f) Are filed more than 90 days after the notice, but within 21 days after the date the transcript was received by this agency; or

// (g) Are filed not more than 90 days after the notice, not including days the adoption of the rule was postponed following notification from the Joint Administrative Procedures Committee that an objection to the rule was being considered; or

// (h) Are filed more than 90 days after the notice, but within 21 days after a good faith written proposal for a lower cost regulatory alternative to a proposed rule is submitted which substantially accomplishes the objectives of the law being implemented; or

// (i) Are filed more than 90 days after the notice, but within 21 days after a regulatory alternative is offered by the small business ombudsman.

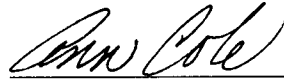
Attached are the original and two copies of each rule covered by this certification. The rules are hereby adopted by the undersigned agency by and upon their filing with the Department of State.

Rule No.

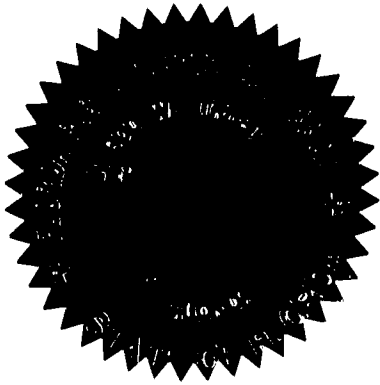
25-6.0423

Under the provision of subparagraph 120.54(3)(e)6., F.S., the rules take effect 20 days from the date filed with the Department of State or a later date as set out below:

Effective: _____
(month) (day) (year)



ANN COLE
Commission Clerk



DES

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1 25-6.0423 Nuclear or Integrated Gasification Combined Cycle Power Plant Cost

2 **Recovery.**

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

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

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

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

14 (c) "Power plant" or "plant" means a nuclear power plant or an integrated gasification
15 combined cycle power plant.

16 (d)~~(b)~~ "Cost" includes, but is not limited to, all capital investments including rate of
17 return, any applicable taxes and all expenses, including operation and maintenance expenses,
18 related to or resulting from the siting, licensing, design, construction, or operation of the
19 nuclear or integrated gasification combined cycle power plant as defined in Section
20 366.93(1)(a) , F.S.

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

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

25 (g)~~(e)~~ "Pre-construction costs" are costs that are expended after a site has been selected

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1 in preparation for the construction of a nuclear or integrated gasification combined cycle
2 power plant, incurred up to and including the date the utility completes site clearing work.

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

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

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

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

23 (5) Pre-Construction Costs and Carrying Costs on Construction Cost Balance. After
24 the Commission has issued a final order granting a determination of need for a ~~nuclear~~ power
25 plant pursuant to Section 403.519, F.S., a utility may petition the Commission for recovery of

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1 pre-construction costs and carrying costs of construction cost balance as follows:

2 (a) Pre-Construction Costs. A utility is entitled to recover, through the Capacity Cost
3 Recovery Clause, its actual and projected pre-construction costs. The utility may also recover
4 the related carrying charge for those costs not recovered on a projected basis. Such costs will
5 be recovered within 1 year, unless the Commission approves a longer recovery period. Any
6 party may, however, propose a longer period of recovery, not to exceed 2 years.

7 1. Actual pre-construction costs incurred by a utility prior to the issuance of a final
8 order granting a determination of need pursuant to Section 403.519, F.S., shall be included in
9 the initial filing made by a utility under this subsection for review, approval, and a finding
10 with respect to prudence.

11 2. The Commission shall include pre-construction costs determined to be reasonable
12 and prudent in setting the factor in the annual Capacity Cost Recovery Clause proceedings, as
13 specified in subparagraph (5)(c)3. of this rule. Such costs shall not be subject to disallowance
14 or further prudence review.

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

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

24 2. For ~~nuclear~~ power plant need petitions submitted after December 31, 2010, the
25 utility's pretax AFUDC rate in effect at the time the petition for determination of need is filed

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1 is presumed to be appropriate unless the Commission determines otherwise in its need
2 determination order;

3 3. The Commission shall include carrying costs on the balance of construction costs
4 determined to be reasonable or prudent in setting the factor in the annual Capacity Cost
5 Recovery Clause proceedings, as specified in paragraph (5)(c) of this rule.

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

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

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

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

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

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

8 2. The Commission shall, prior to October 1 of each year, conduct a hearing and
9 determine the reasonableness of projected pre-construction expenditures and the prudence of
10 actual pre-construction expenditures expended by the utility; or, once construction begins, to
11 determine the reasonableness of projected construction expenditures and the prudence of
12 actual construction expenditures expended by the utility, and the associated carrying costs.
13 Within 15 days of the Commission's vote, the Commission shall enter its order. Annually, the
14 Commission shall make a prudence determination of the prior year's actual construction costs
15 and associated carrying costs. To facilitate this determination, the Commission shall conduct
16 an on-going auditing and monitoring program of construction costs and related contracts
17 pursuant to Section 366.08, F.S. In making its determination of reasonableness and prudence
18 the Commission shall apply the standard provided pursuant to Section 403.519(4)(e) , F.S.

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

24 4. The final true-up for the previous year, actual/estimated true-up for the current year,
25 and subsequent year's projected ~~nuclear~~ power plant costs as approved by the Commission

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1 pursuant to subparagraph (5)(c)2. will be included for cost recovery purposes as a component
2 of the following year's capacity cost recovery factor in the Fuel and Purchased Power Cost
3 Recovery. The utility must file all necessary revisions to the fuel and purchased power cost
4 recovery filings no later than October 15 of the current year.

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

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

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

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

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

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1 (a) The utility shall file a petition for Commission approval of the base rate increase
2 pursuant to Section 366.93(4), F.S., separate from any cost recovery clause petitions, that
3 includes any and all costs reflected in such increase, whether or not those costs have been
4 previously reviewed by the Commission; provided, however, that any actual costs previously
5 reviewed and determined to be prudent in the Capacity Cost Recovery Clause shall not be
6 subject to disallowance or further prudence review except for fraud, perjury, or intentional
7 withholding of key information.

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

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

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

24 (e) The jurisdictional net book value of any existing generating plant that is retired as a
25 result of operation of the ~~nuclear~~ power plant shall be recovered through an increase in base

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1 rate charges over a period not to exceed 5 years. At the end of the recovery period, base rates
2 shall be reduced by an amount equal to the increase associated with the recovery of the retired
3 generating plant.

4 (8) A utility shall, contemporaneously with the filings required by paragraph (5)(c)
5 above, file a detailed statement of project costs sufficient to support a Commission
6 determination of prudence, including, but not limited to, the information required in
7 paragraphs (8)(b) – (8)(e), below.

8 (a) Subject to suitable confidentiality agreements or, to the extent necessary, protective
9 orders issued by the Commission, a utility will ensure reasonably contemporaneous access,
10 which may include access by electronic means, for review by parties of all documents relied
11 on by utility management to approve expenditures for which cost recovery is sought. Access
12 to any information that is “Safeguards Information” as defined in 42 U.S.C. 2167 and 10
13 C.F.R. 73.21, incorporated by reference into this Rule, shall only be in accordance with
14 applicable Nuclear Regulatory Commission requirements.

15 (b) Regarding technology selected, a utility shall provide a description of the
16 technology selected that includes, but is not limited to, a review of the technology and the
17 factors leading to its selection.

18 (c) The annual true-up and projection cost filings shall include a list of contracts
19 executed in excess of \$1 million to include the nature and scope of the work, the dollar value
20 and term of the contract, the method of vendor selection, the identity and affiliation of the
21 vendor, and current status of the contract.

22 (d) Final true-up filings and actual/estimated true-up filings will include monthly
23 expenditures incurred during those periods for major tasks performed within Site Selection,
24 Preconstruction and Construction categories. A utility shall provide annual variance
25 explanations comparing the current and prior period to the most recent projections for those

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1 periods filed with the Commission.

2 (e) Projection filings will include monthly expenditures for major tasks performed
3 within Site Selection, Preconstruction and Construction categories.

4 (f) Annual Reports Required by Rule 25-6.135, F.A.C. On an annual basis following
5 issuance of the final order granting a determination of need and until commercial operation of
6 the ~~nuclear~~ power plant, a utility shall include the budgeted and actual costs as compared to
7 the estimated in-service costs of the ~~nuclear~~ power plant as provided in the petition for need
8 determination in its annual report filed pursuant to Rule 25-6.135, F.A.C. The estimates
9 provided in the petition for need determination are non-binding estimates. Some costs may be
10 higher than estimated and other costs may be lower. A utility shall provide such revised
11 estimated in-service costs as may be necessary in its annual report.

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

13 Law Implemented 366.93 FS.

14 History--New 4-8-07.

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SUMMARY OF RULE

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 HEARINGS ON THE RULE

No hearing was requested and none was held.

FACTS AND CIRCUMSTANCES JUSTIFYING THE RULE

In 2007, the Florida legislature amended Section 366.93, FS, to make IGCC power plants eligible for cost recovery under the same conditions as nuclear power plants. The Statute directs the PSC to establish, by rule, alternative cost recovery mechanisms for the recovery of costs incurred in the siting, design, licensing, and construction of an IGCC power plant.

The Florida legislature amended Section 403.519, Florida Statutes, to require the PSC to consider whether renewable energy sources and technologies, as well as conservation measures, are utilized to the extent reasonably available when making its determination of need for a proposed power plant. The PSC's existing Rule 25-22.081, F.A.C., contains a description of what the PSC shall take into account when it reviews applications for determination of need. Therefore, the existing rule must be amended to include the new requirements the legislature has dictated. The PSC's existing Rule 25-22.081, F.A.C., also contains a description of what applications for fossil and nuclear power plants must contain. Therefore, the rule must be amended to include applications for IGCC power plants so that applicants for such plants will be aware of what their petition should contain.