

State of Florida



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: November 7, 2007

TO: Office of Commission Clerk (Cole)

FROM: Office of the General Counsel (Smith)
Division of Economic Regulation (Lewis, Hewitt)

RE: Docket No. 070672-EI – Proposed amendment of Rule 25-6.0423, F.A.C., Nuclear Power Plant Cost Recovery, and Rule 25-22.081, F.A.C., Contents of Petition.

AGENDA: 11/20/07 – Regular Agenda – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All

PREHEARING OFFICER: Administrative

RULE STATUS: Proposal – 6-month deadline 12/12/07

SPECIAL INSTRUCTIONS: None

FILE NAME AND LOCATION: S:\PSC\ECR\WP\070672.RCM.DOC

Case Background

This recommendation addresses amendment of two rules as follows:

Rule 25-6.0423 Nuclear Power Plant Cost Recovery.

In 2006, the Florida Legislature enacted section 366.93, Florida Statutes, Cost recovery for the siting, design, licensing, and construction of nuclear power plants. Subsection (2) of the statute required the Commission to adopt rules to establish “alternative cost recovery mechanisms for the recovery of costs incurred in the siting, design, licensing, and construction of a nuclear power plant.” The stated objective of such rules was “to promote utility investment in nuclear power plants and allow for the recovery in rates of all prudently incurred costs”

Consistent with the legislative directive of section 366.93, the Commission adopted Rule 25-6.0423, Florida Administrative Code. The Rule details the various filing, accounting and reporting requirements for nuclear cost recovery as directed by the statute.

In 2007, the Legislature added integrated gasification combined cycle (IGCC) power plants to those eligible for cost recovery under the alternative cost recovery mechanisms adopted in 2006 for nuclear power plants.¹ The 2007 amendments require the Commission to adopt rules to implement cost recovery for IGCC plants. Accordingly, staff has amended Rule 25-6.0423 to extend the alternative cost recovery mechanisms of that rule to IGCC plants. As required by section 120.54(2), Florida Statutes, a notice of rule development was published in the August 31, 2007 edition of the Florida Administrative Weekly. Commission notice was separately distributed by the Office of Commission Clerk on August 23, 2007. No request for a rule development workshop was received.

Rule 25-22.081 Contents of Petition

In 2006, the Legislature also amended section 403.519, Florida Statute, Exclusive forum for determination of need, to add specific procedures for need certification of a nuclear power plant. The amendments recognized the cost recovery mechanisms for nuclear plants set out in 366.93, Florida Statutes (2006) and added “fuel diversity” as a factor to be specifically considered by the Commission in ruling on a petition for determination of need.

In response to the 2006 amendments to section 403.519, the Commission adopted amendments to Rule 25-22.081, Florida Administrative Code, which sets forth the required contents of a petition for determination of need. Consistent with the statutory changes, the amendments listed additional filing requirements for nuclear power plants and added “fuel diversity” to the criteria to be considered by the Commission for all types of power plants.

In 2007, the Legislature again amended 403.519 to bring IGCC plants under the procedures previously adopted for nuclear plants.² The statute was also amended to require the Commission to consider “whether renewable energy sources and technologies, as well as conservation measures, are utilized to the extent reasonably available” in making its determination of need for all power plants. Staff has developed amendments to Rule 25-22.081 to implement the 2007 statutory changes.

A notice of rule development for Rule 25-22.081 was published in the Florida Administrative Weekly on August 31, 2007. The Commission Clerk’s notice was published on August 23, 2007. One request for a rule development workshop was initially filed, but later withdrawn after clarification from staff on the intent of the rule changes.

¹ Ch. 2007–117, Laws of Florida

² Ch. 2007-117, Laws of Florida

STATEMENT OF ESTIMATED REGULATORY COSTS SUMMARY

Since the two proposed rules are related, a combined Statement of Estimated Regulatory Costs (SERC) was prepared by the Division of Economic Regulation. A copy is appended as Attachment 3.

The SERC concludes that the two rule amendments could result in some additional incremental cost to the Commission in implementing the alternative cost recovery mechanisms for IGCCs. No significant incremental benefits to the Commission were identified.

Utilities should have no significant additional costs as a result of the rule, since current practices require detailed filings in need determinations and cost recovery proceedings. Recovery of preconstruction costs for an IGCC plant would benefit the electric utilities.

Customers, including local governments and small businesses, as well as local ratepayers may incur higher energy bills and as a result of preconstruction cost recovery for IGCCs. However, those costs could be mitigated by diversification of fuel supply which should reduce future impacts from fuel price volatility.

Discussion of Issues

Issue 1: Should the Commission propose amendments to Rule 25-6.0423, Nuclear Power Plant Cost Recovery, to include integrated gasification combined cycle plants for alternative cost recovery?

Recommendation: Yes, rulemaking is required by the 2007 changes to section 366.093, Florida Statutes.

Staff Analysis: The proposed amendments to Rule 25-6.0423 do not make substantive changes to the rule; they simply include IGCC plants in the cost recovery process that was developed for nuclear plants. A summary of the changes shown in Attachment 1 is as follows:

The title of the rule is amended to read “Nuclear or Integrated Gasification Combined Cycle Power Plant Cost Recovery.”

Subsection (2) of the rule, “Definitions”, is modified to recognize its applicability to IGCC plants. Specifically, a definition of an “integrated gasification combined cycle power plant,” as set out in 366.93(1)(c) Florida Statutes, is added to the rule in paragraph (2)(b). A new definition of “power plant” is added in paragraph (2)(c) to encompass both nuclear and IGCC plants. That definition is substituted for “nuclear plant” throughout the rule.

Subsection (2), paragraphs (b)-(g), are renumbered (d)-(i).

Integrated gasification combined cycle is inserted as appropriate in renumbered paragraphs (2)(e); (2)(g); (2)(h), and (2)(i).

Subsection (5)(b)(1) is amended to reflect the AFUDC rate effective on the date of the statutory change, June 12, 2007.

STATUTORY AUTHORITY

As noted in the Background section above, 2007 changes to 366.93 include IGCC technology in the statutory provisions that directed the Commission to develop alternative cost recovery mechanisms for nuclear plants. The rule changes implement the legislative directive. The Commission has specific authority to adopt rules for regulation of electric utilities in sections 350.127(2) and 366.05(1), Florida Statutes, as well as in the amended statute itself.

Issue 2: Should the Commission propose amendments to Rule 25-22.081, Contents of Petition, to require electric utilities seeking a determination of need for an integrated gasification combined cycle plant to file information paralleling that required for nuclear plants and to require all applicants to submit information to allow the Commission to evaluate the use of conservation measures and renewable generation resources in the need determination process?

Recommendation: Yes, the 2007 amendments to sections 366.93 and 403.519 require these changes to the Rule.

Staff Analysis: As noted above in the Background section, the Legislature has chosen to put IGCC technology on the same footing as nuclear technology for purposes of a determination of need and subsequent cost recovery. It has also required the Commission to take into account an applicant's utilization of conservation measures and renewable generating resources in evaluating the need for a new power plant. A summary of the needed changes to Rule 25-22.081 as shown in Attachment 2 is set forth below:

Subsection (1) of the rule is amended to read: "Petition for Fossil, Integrated Gasification Combined Cycle, or Nuclear Fuel Electric Plants." "Integrated gasification combined cycle" is inserted in the text of the subsection. To capture the legislative directive to consider conservation measures and renewable generation resources in evaluating the need for a new plant, the last full sentence of the first paragraph is amended to read:

To allow the Commission to take into account the need for electric system reliability and integrity, . . . 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

Paragraphs (2)(g) is amended to insert "integrated gasification combined cycle" in subparagraphs (a), (b) and (c).

STATUTORY AUTHORITY

The Commission has statutory authority to enact rules for regulation of electric utilities in sections 350.127(2) and 366.05(1), Florida Statutes. The law implemented are the 2007 amendments to section 403.519, Florida Statutes.

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Issue 3: Should this docket be closed?

Recommendation: Yes, if no requests for hearing or comments are filed, the rule amendments as proposed can be filed for adoption with the Secretary of State, and the docket should be closed.

Staff Analysis: Unless a hearing is held or comments filed, the rules will become final as proposed and may be filed for adoption without further action by the Commission. The docket can then be closed.

DES

Attachments

Rules

SERC

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

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

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

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

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

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

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

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

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

23 (g)~~(e)~~ “Pre-construction costs” are costs that are expended after a site has been selected in
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1 preparation for the construction of a nuclear or integrated gasification combined cycle power
2 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 License
5 (COL) application for a nuclear power plant; costs associated with site and technology selection;
6 costs of engineering, designing, and permitting the nuclear or integrated gasification combined
7 cycle power plant; costs of clearing, grading, and excavation; and costs of on-site construction
8 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 for
16 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 may
19 file a petition for a separate proceeding, to recover prudently incurred site selection costs. This
20 separate proceeding will be limited to only those issues necessary for the determination of
21 prudence and alternative method for recovery of site selection costs of a ~~nuclear~~ power plant.

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

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

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

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

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

22 1. For ~~nuclear~~ power plant need petitions submitted on or before December 31, 2010, the
23 associated carrying costs shall be computed based on the pretax AFUDC rate in effect on June
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1 12, 200719, 2006;

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

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

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

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

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

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

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

12 2. The Commission shall, prior to October 1 of each year, conduct a hearing and
13 determine the reasonableness of projected pre-construction expenditures and the prudence of
14 actual pre-construction expenditures expended by the utility; or, once construction begins, to
15 determine the reasonableness of projected construction expenditures and the prudence of actual
16 construction expenditures expended by the utility, and the associated carrying costs. Within 15
17 days of the Commission's vote, the Commission shall enter its order. Annually, the Commission
18 shall make a prudence determination of the prior year's actual construction costs and associated
19 carrying costs. To facilitate this determination, the Commission shall conduct an on-going
20 auditing and monitoring program of construction costs and related contracts pursuant to Section
21 366.08, F.S. In making its determination of reasonableness and prudence the Commission shall
22 apply the standard provided pursuant to Section 403.519(4)(e) , F.S.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23 Law Implemented 366.93 FS.

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1 History–New 4-8-07.

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1 **25-22.081 Contents of Petition.**

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

16 (a) A general description of the utility or utilities primarily affected, including the load
17 and electrical characteristics, generating capability, and interconnections.

18 (b) A general description of the proposed electrical power plant, including the size,
19 number of units, fuel type and supply modes, the approximate costs, and projected in-service
20 date or dates.

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

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

21 (e) A discussion of viable nongenerating alternatives including an evaluation of the
22 nature and extent of reductions in the growth rates of peak demand, KWH consumption and oil
23 consumption resulting from the goals and programs adopted pursuant to the Florida Energy
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1 Efficiency and Conservation Act both historically and prospectively and the effects on the timing
2 and size of the proposed plant.

3 (f) An evaluation of the adverse consequences which will result if the proposed electrical
4 power plant is not added in the approximate size sought or in the approximate time sought.

5 (g) If the generation addition is the result of a purchased power agreement between an
6 investor-owned utility and a nonutility generator, the petition shall include a discussion of the
7 potential for increases or decreases in the utility's cost of capital, the effect of the seller's
8 financing arrangements on the utility's system reliability, any competitive advantage the
9 financing arrangements may give the seller and the seller's fuel supply adequacy.

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

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

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

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

21 (d) A summary of any discussions with other electric utilities regarding ownership of a
22 portion of the plant by such electric utilities.

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

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1 Law Implemented 403.519 FS.

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

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

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

DATE: October 24, 2007
TO: Office of General Counsel (Smith)
FROM: Division of Economic Regulation (Hewitt)
RE: Statement of Estimated Regulatory Costs for Proposed Rule Amendments to 25-6.0423, F.A.C., Nuclear Power Plant Cost Recovery; and, 25-22.081, F.A.C., Contents of Petition

DETAILED DESCRIPTION OF THE PROPOSED RULE AMENDMENTS

1. Why it is being proposed?

New policy mandated by statute

The proposed amendments to Rule 25-6.0423, F.A.C, Nuclear Power Plant Cost Recovery, would implement changes to Section 366.93, Florida Statutes, which adds Integrated Gasification Combined Cycle (IGCC) plants to the expedited cost recovery.

Rule 25-22.081, F.A.C., Contents of Petition, implements changes to Section 403.519, Florida Statutes, which adds IGCC plants. Section 403.519 contains the issues the PSC must take into account when there is a petition or proceeding for determination of need for a proposed fossil or nuclear fuel electric power plant.

2. What do the rules do and how do they accomplish the goals?

The current rule gives detailed requirements for creating an alternative cost recovery mechanism for all prudently incurred costs for investment in new nuclear plants. These costs include those expenditures for siting, design, licensing, and construction of a nuclear power plant. The rule allows preconstruction costs to be recovered through the Capacity Cost Recovery Clause (CCRC). When a plant is placed in service, the utility is allowed to increase base rate charges by the projected annual revenue requirement. The proposed rule amendments would add IGCC power plants to the allowed recovery process and add "... or Integrated Gasification Combined Cycle..." to the title of the rule.

The proposed amendments to Rule 25-22.081, F.A.C., Contents of Petition, would implement the addition of IGCC plants in the statute and the requirement that the Commission

determine whether renewable energy sources and technologies, as well as conservation measures, are utilized to the extent reasonably available, by the applying IOU.

IMPACT ON THE PSC

*Rule implementation and enforcement costs and impact on revenues
For the agency and other state and local government entities*

Incremental costs

After the PSC has issued a final order granting a determination of need, a utility planning to build an IGCC plant would be allowed to petition the PSC for recovery of prudently incurred site selection costs. After the PSC has issued a final order granting a determination of need, a utility planning to build an IGCC plant would be allowed to petition the PSC for recovery of pre-construction costs and carrying costs of construction cost balances. These additional petitions and subsequent hearings would add significant additional Commissioners' and staff time.

An additional incremental cost to the Commission would be the usual costs of promulgating a rule. The utilities currently file the information required by the rule changes and the Commission currently considers the petitions for additional generation need determinations.

Incremental benefits

Commission staff would benefit by having the latest statute requirements available in Commission rules when reviewing a petition for determination of need, along with the necessary information required of the petition. There should be no significant impact on FPSC revenues. Other state and local government entities should not be negatively impacted.

WHO BESIDES THE PSC WILL BE AFFECTED BY ADOPTION OF THE PROPOSALS

Estimated number of entities required to comply and General description of individuals affected

Utilities

Any of the five IOUs in Florida that plans to build an IGCC plant would be under the jurisdiction of the Commission for cost recovery. Electric cooperatives and municipal operated electric companies that petition the PSC for a need determination must comply with the contents of the petition rule. Only a few of the 34 municipals and 18 cooperatives currently generate electricity. The utilities sell electricity to industrial, commercial, and residential customers throughout the state who may be affected by a new plant.

Customers

All ratepayers of a utility company that files a request for a determination of need would be affected when the pre-construction costs are passed through the CCRC and the construction cost of an IGCC plant is placed into the ratebase.

Impact on small businesses, small cities, or small counties

There should be no impact from the rule changes on small businesses, small cities, or small counties

Outside business and local governments

There should be no impact from the rule changes on businesses, cities, or counties.

HOW ARE THE PARTIES ABOVE AFFECTED BY THE ADOPTION OF THE PROPOSAL

Estimated transactional costs to individuals and entities

Utilities

Section 366.936(2) (a) and (b), Florida Statutes, provide for the recovery of pre-construction costs and the carrying costs on the utility's projected construction costs through the Capacity Cost Recovery Clause. The rule sets forth the procedure for including these costs in the annual cost recovery clause proceedings.

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 would be some additional accounting and filing costs associated with new IGCC plant planning and construction expenditures that would be recovered through the CCRC. There would be additional hearings for Commission review of associated costs of a new IGCC plant before they are passed through to customers. There would be a significant benefit for a petitioning utility in being able to collect preconstruction costs through the CCRC before a plant is in service and in knowing that reasonable and prudent investment in new IGCC 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 for new nuclear generation under these rules would be \$10,000 per year for on-going costs.

Customers could benefit from an IOU building a nuclear plant which has lower electricity costs and contributes to fuel diversity. However, customers could be impacted negatively from preconstruction costs passed through the CCRC, and if a plant is not completed and they subsequently have to pay for the sunk costs through their electricity bills.

There should be no new transactional costs for requiring renewable and conservation issues' information. IOUs filing a petition of need for a new power plant already submit information on their efforts in utilizing renewable energy sources and technologies, as well as conservation measures, to the extent reasonably available.

Customers

As a result of this statutory requirement, ratepayers including local government entities and small businesses would incur higher energy bill costs associated with the IGCC plant before any benefits of the expected fuel savings from the plant operation are realized. However, the long term benefits of diversification of energy supply should mitigate future impacts from fuel price volatility.

Outside business including specifically small businesses

Outside businesses or small businesses would have the same benefits and costs as the other ratepayers in their rate class.

Local governments

Small cities or small counties would have the same benefits and costs as the other ratepayers in their rate class.

ANY OTHER PERTINENT COMMENTS REGARDING THE APPLICATION OF THE PROPOSED RULE

None.

CH:kb

cc: Mary Andrews Bane
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