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1 A bill to be entitled
 2 An act relating to water and wastewater utilities; creating
 3 s. 367.0819, F.S.; providing for recovery through a
 4 surcharge of certain costs relating to water and wastewater
 5 system improvement projects; defining a "non-revenue
 6 producing project;" requiring utilities to submit surcharge
 7 tariffs reflecting the surcharge calculation for recovery
 8 of such costs to the Florida Public Service Commission for
 9 approval and to provide specified notice of such surcharge
 10 tariff filings; providing for the automatic approval of the
 11 surcharge tariff within a specified period after filing the
 12 surcharge tariff with the commission; requiring the
 13 surcharge notice be presented as a separate line item on
 14 the customer's bill; specifying a limitation for the
 15 surcharge amount; providing requirements for billing,
 16 reconciliation, and quarterly adjustment of the surcharge;
 17 specifying a limitation for recovery of project costs;
 18 providing project eligibility criteria; specifying water
 19 and wastewater treatment criteria; providing requirements
 20 for notice, maintenance, and availability of certain
 21 records; authorizing the commission to review specified
 22 projects; providing that surcharges are subject to refund
 23 under certain conditions; providing an effective date.

24
 25 Be It Enacted by the Legislature of the State of Florida:

26
 27 Section 1. Section 367.0819, Florida Statutes, is created
 28 to read:

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29 367.0819 Recovery of costs for system improvement
 30 projects.-

31 (1) (a) In order to promote utility investment in system
 32 improvement projects, the commission shall allow a utility to
 33 recover prudently incurred capital costs related to non-revenue
 34 producing projects to enhance water quality, fire protection
 35 reliability, and long-term system viability through a surcharge
 36 collected pursuant to this section. The costs of existing or new
 37 facilities to serve new customers are not recoverable through
 38 this surcharge.

39 (b) For purposes of this section, a "non-revenue producing
 40 project" means a project that is not constructed or installed
 41 for the purpose of serving a new customer.

42 (2) A utility seeking to establish a surcharge pursuant to
 43 this section must:

44 (a) Submit, for commission approval, the proposed surcharge
 45 tariff establishing a formula for the calculation of rates
 46 reflecting the surcharge, which rates provide for recovery of
 47 depreciation and return on investment for each eligible project.
 48 The return on investment for each eligible project must be based
 49 on the utility's last authorized pre-tax rate of return. The
 50 surcharge must be calculated, applied, and recovered in
 51 accordance with the utility's last authorized rate structure.
 52 Until the surcharge is reset pursuant to subsection (4) (d), the
 53 total cumulative amount of the surcharge revenue recovered by
 54 the utility shall not exceed 8 percent of the utility's total
 55 annual retail water service revenues, and where applicable, 8
 56 percent of the utility's total annual wastewater service

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57 revenues, for the preceding calendar year.

58 (b) Provide notice by mail of the initial surcharge tariff
 59 filing to each customer in the affected service areas and
 60 publish notice of the surcharge filing in a newspaper of general
 61 circulation in the affected service areas.

62 (c) Before implementing a surcharge under this section, the
 63 utility shall file a sworn affirmation as to the accuracy of the
 64 figures and calculations upon which surcharge or any adjustment
 65 thereto is based, stating that the change in rates will not
 66 cause the utility to exceed the range of its last authorized
 67 rate of return on equity. Whoever makes a false statement in
 68 the affirmation required hereunder, which statement he or she
 69 does not believe to be true in regard to any material matter, is
 70 guilty of a felony of the third degree, punishable as provided
 71 in s. 775.082, s. 775.083, or s. 775.084.

72 (d) If, within 15 months after the filing of a utility's
 73 annual report required by s. 367.121, the commission finds that
 74 the utility exceeded the range of its last authorized rate of
 75 return on equity after the implementation of the surcharge
 76 authorized by this section within the year for which the report
 77 was filed, the commission may order the utility to refund, with
 78 interest, the difference to the ratepayers and adjust rates
 79 accordingly. This provision shall not be construed to require a
 80 bond or corporate undertaking in order for the utility to
 81 implement the surcharge.

82 (3) A surcharge tariff submitted by a utility in compliance
 83 with the requirements of subsection (2) (a) shall not be subject
 84 to s. 367.091 and shall be approved as a matter of right without

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85 hearing within 60 days after filing the surcharge tariff with
 86 the commission.

87 (4) A surcharge established pursuant to this section shall
 88 be:

89 (a) Presented as a separate line item on the customer's
 90 bill and billed in accordance with the billing cycle in the
 91 utility's approved tariff. Any changes in the surcharge must be
 92 reflected on the first bill the customer receives following the
 93 change of the surcharge.

94 (b) Revaluated, and if necessary, adjusted, on a quarterly
 95 basis to reflect the costs of eligible projects placed into
 96 service. The utility shall file the supporting data to increase
 97 or reduce the surcharge with the commission for each revaluation
 98 along with a sworn affirmation required by subsection (2) (c),
 99 and shall contemporaneously deliver copies of the supporting
 100 data and the sworn affirmation to the Office of Public Counsel.
 101 The surcharge adjustment shall not be subject to s. 367.091 and
 102 shall take effect without hearing 45 days after the supporting
 103 data and sworn affirmation are filed with the commission and
 104 delivered to the Office of Public Counsel.

105 (c) Subject to an annual reconciliation of revenues and
 106 costs based on a reconciliation period of 12 months, such period
 107 to begin on the date the surcharge tariff is approved as a
 108 matter of right pursuant to subsection (3). Within 30 days of
 109 the end of each reconciliation period, the utility shall file
 110 with the commission, and deliver to the Office of Public
 111 Counsel, a reconciliation report which shall compare the actual
 112 surcharge revenues received and the actual eligible costs

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113 incurred by the utility during the prior period along with the
 114 sworn affirmation required by subsection (2)(c). A
 115 reconciliation report filed in accordance with these
 116 requirements shall be administratively approved by the
 117 commission without hearing within 45 days of filing. The
 118 difference between revenue and costs shall be recovered or
 119 refunded, as appropriate, by the utility without hearing as an
 120 automatic adjustment to the subsequent surcharge calculation.
 121 Revenues in excess of system-improvement costs shall be refunded
 122 with interest to customers pursuant to the commission's rule on
 123 interest for water and wastewater utilities.

124 (d) Reset at zero as of the effective date of new base
 125 rates that provide for prospective recovery of the costs that
 126 had previously been recovered under the surcharge. Thereafter,
 127 only the costs of new eligible projects that have not previously
 128 been included in the base rate of the utility shall be reflected
 129 in the surcharge.

130 (5) Recovery of project costs pursuant to this section does
 131 not preclude such costs from being included in base rates in
 132 subsequent rate proceedings. However, a project cost recovered
 133 in base rates may not be recovered through a surcharge
 134 established pursuant to this section.

135 (6) A project is eligible for recovery of costs through the
 136 surcharge if it is:

137 (a) Completed and placed into service after the test year
 138 upon which base rates were last established by the commission
 139 for the utility; and

140 (b) For the construction of non-revenue producing

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141 improvement projects that are used for the production,
 142 treatment, transmission, storage, distribution, or provision of
 143 potable or recycled water to the public or for the collection,
 144 transportation, or disposal of wastewater for the public. Such
 145 projects may include, but are not limited to, water quality
 146 improvement projects designed to achieve primary or secondary
 147 water standards as determined by the Department of Environmental
 148 Protection, the United States Environmental Protection Agency,
 149 or any other governmental entity having similar regulatory
 150 jurisdiction; wastewater quality improvement projects; main,
 151 service line, and valve replacement projects; main relining and
 152 rehabilitation projects; fire and flushing hydrant installation
 153 and replacement projects; main extension to eliminate dead ends;
 154 interconnection projects; water, wastewater, and reuse meter
 155 installation and replacement projects; wastewater collection,
 156 replacement, relining, and rehabilitation projects; and manhole
 157 replacement and rehabilitation projects.

158 (7) Water and wastewater treatment includes production of
 159 any sodium solution, excluding sodium hypochlorite, used in
 160 conjunction with the treatment process, but does not include the
 161 onsite manufacturing of liquid chlorine or bleach.

162 (8) Upon approval of the surcharge tariff, the utility
 163 shall maintain and make available for public inspection during
 164 normal business hours at each utility location or on the
 165 utility's website a detailed schedule for each completed
 166 project, including the plant account number and title, the
 167 category of the project, the project name and description, the
 168 cost of the project in the month of closing, and the month and

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169 year of closing. Notice of the availability of the schedules for
 170 public inspection shall be posted in each office of the utility.

171 (9) The commission may review the prudence of all projects
 172 subject to the surcharge in the utility's next base rate
 173 proceeding following the commission's initial approval of the
 174 surcharge pursuant to subsection (3). Revenues from such
 175 surcharges are subject to refund if the commission subsequently
 176 determines that the costs of a project were not prudently
 177 incurred or that the project is not used and useful in the
 178 public service, and any such refund shall be made pursuant to
 179 the commission's rule on refunds for water and wastewater
 180 utilities.

181 Section 2. This act shall take effect July 1, 2011.